

PROCEEDINGS

of a

MILITARY COURT FOR THE
TRIAL OF WAR CRIMINALS

held at

LUNENBERG, GERMANY

on

TUESDAY 13 NOVEMBER, 1945.

upon the trial of

JOSEF KRAMER

and

44 Others.

FIFTIETH- DAY.

Transcript of the Official
Shorthand Notes.

(At 0930 hours the Court reassemble pursuant to adjournment, the same President, Members and Judge Advocate being present).

(The accused are again brought before the Court).

THE PRESIDENT: Just before I call on the learned Prosecutor, I want to be quite clear that these accused understand what is happening now.

MAJOR CRANFIELD: Yes, it has been explained to them that each of their Defending Officers makes a final address to the Court.

THE PRESIDENT: Do they know that the learned Prosecutor will then address the Court and that the learned Judge Advocate will then sum up? I will have it explained to them. (To the Interpreter): Just explain to the accused that yesterday the last of the Defending Officers finished his address on their behalf and that the learned Prosecutor will now make his final address. After that the learned Judge Advocate will then sum up.

(This is interpreted to the accused in German and Polish).

COLONEL BACKHOUSE: May it please the Court. Before I start my closing address there are one or two preliminary points I would like to clear away, if I may. The first is the question of the accused Gura. Whatever may be the legal position, I think the Court would agree that Gura, having been away from the Court for so long, it would quite obviously be improper to arrive at any finding in his absence, and I would ask the Court in his case to arrive at no finding and to report to the convening officer that they are unable to arrive at a finding because he was ill and away, and it was not practicable to adjourn the case. That would then leave the convening officer free to take any course he might consider proper.

The second point that I would like to clear away now is the question of some of the specific names set out in the charge sheet. It is quite obvious that some of those names are not supported by the evidence. I do not want to deal now with the point about the charge being vague, but merely to deal with the actual ones with regard to whom I suggest the Court should make a special finding.

THE PRESIDENT: I take it that is Sara Kohn.

COLONEL BACKHOUSE: Anna Kis and Sara Kohn. I think those are the first two that Major Cranfield raised. It is quite true that no evidence has been given with regard to those two, and I can tell you exactly how it arose. You will note that both arose in the affidavits of Jenner, and as Jenner was not in the dock those affidavits were not put in. They were general affidavits, and by that time we were trying to cut out as many of the affidavits as we could to save time, unless they raised something particular. As they related solely to him they were not put in.

The third name is Glinovjechy. It is quite obvious from the evidence that he was at Auschwitz and not Belsen, and it has been put into the wrong charge by mistake. I think that covers all except Marla Konatkevicz, and that was left out for a quite deliberate reason. You will see, if you read the affidavit in that case, that it was definitely after the period, and it was left out.

THE PRESIDENT: I should like to confirm the note I have: Anna Kis, Sara Kohn, Glinovjechy and Marla Konatkevicz.

COLONEL BACKHOUSE: All those four. The Court cannot find the accused guilty in respect of those four because the evidence was not put before the Court for one reason or another. The remainder, of course, were the death certificates.

The only other preliminary matter that I would like to deal with - and I think it is proper that I should say this - is that this case has gone on for a very long time, and it would be idle for us to pretend that we do not know there has been criticism of that. I think it is right that I should say this now: Until the end of the Prosecution's case there was no complaint of the length of time this case took; the complaints which have been made have been made by people outside this Court who have not been present, and those complaints have only been made since the Defence began. I would like to say, on behalf of the Prosecution, that it is quite obvious to anybody who has sat in this Court that there has been no waste of time by the Defence, and to put the matter in perspective I think one should realise this. The Prosecution in this case took 10 days; the Defence have taken 30 days. There have been 45 accused persons, all of whom are on trial, it is quite fair to say, for their lives, and if anybody grudges somebody two-thirds of a day when they are on trial for their life, it should certainly not be anybody who has any connection with British justice. That is so particularly when one remembers that all the evidence had to be translated into two languages, and if there were 45 accused persons being tried in England, where the case would not have been translated at all, no-one, I am sure, would grudge each of them half a day to make their defence.

I think it is right to say that, and to say that if this case proves that the accused have been given every opportunity to make their defence, that they have been given exactly the same opportunity to make their defence that a British soldier would have before a Court Martial or a British citizen before a British Court, then not a day of that time has been wasted.

THE PRESIDENT: I entirely agree.

COLONEL BACKHOUSE: Now to deal with the case itself.

It is not my duty or the duty of any Prosecutor in a British Court to press the Court for a conviction, to demand findings, or to demand sentences. My duty is purely and simply to put before the Court now, at the end of this case, after we have heard the whole of the evidence, the contentions of the Prosecution; the case which the Prosecution presents, and to review the facts quite shortly and impartially with a view to showing how they support, as I maintain, the case for the Prosecution.

I do not propose to go in great detail through the evidence, because, as I have said, it is not my duty to press the Prosecution's case, and the learned Judge Advocate will, I know, be going through the evidence quite impartially to the Court and reminding you of the particular evidence of the particular witnesses.

It, therefore, would seem to me to be an impertinence and a waste of the Court's time if I were to do precisely the same thing immediately beforehand.

I propose, therefore, to present the case as a whole. I must thereafter deal with each accused separately and draw your attention to the main points on which I shall invite the Court to say that they are proved guilty. Before I turn to the facts at all I want to deal with the law.

The law in this case has been argued very fully, and the Court have had the advantage of hearing the law argued not only by the defending officers - several of whom have put legal points to the Court with the utmost clarity - but also by Colonel Smith who came out here specially to argue the legal position. Colonel Smith said: "I come before the Court purely as a Defending Officer", but it would be idle for us to pretend that we do not know that he is a Professor of International Law. That was made very plain to everybody before he came, and I am sure Colonel Smith would forgive me for saying that from his manner in addressing the Court it was quite obvious.

His request at the end of each paragraph, so to speak, for questions from the Court - and frankly I would equally welcome the questions from the Court at any time - and his friendly request to myself and the Defending Officers to question him as well, gave us definitely the atmosphere of the class room.

Again, I think his background sketched was definitely that of a professor. The easy way with which he explained to us how the Manual came to be written by Colonel Edmunds and Mr. Oppenheim. As a matter of fact he was not very accurate, because it was written some 25 years after Mr. Oppenheim and after Colonel Edmunds died, and it was written by Professor Lauterpacht. I think Colonel Smith was thinking of the previous edition, which was written in 1914, before the last war and before the Geneva Convention. He did, of course, deal with certain points of law, and those are the points I want to deal with now.

Colonel Smith's first point was this: Does this charge disclose any war crime? That, as the Court are aware, is a point which should normally have been taken at the beginning of the case, and if the Court were satisfied that the charge did not disclose any war crime, that would have been an end of the matter and we would all have gone home - or at least we should until it had been referred to the convening officer.

It was agreed that that point should be reserved, and so Colonel Smith made his point after the evidence had been called, although technically, of course, he is making it without reference to the evidence called in the case.

The first thing I want to do is just to read the charge, leaving out the unimportant words, because it was significant that Colonel Smith never did refer to the charge itself. "At Bergen-Belsen, between 1 October 1942 and 30 April 1945 when members of the staff of Bergen-Belsen concentration camp responsible for the well being of the persons interned there, in violation of the law and usages of war were together concerned as parties to the ill treatment of certain of such persons causing the deaths", and so on, the persons being Allied nationals.

That is quite a simple charge. It is a charge that when they were members of the staff of the camp, responsible for the well being of persons who are interned in that camp, in violation of the Laws and Usages of War they were concerned as parties in the ill-treatment of those persons and those persons were Allied nationals.

Now another thing which Colonel Smith forgot to do was to read to you the definition of a war crime in the Regulations. We had definitions by Colonel Smith; we had definitions by Professor Lauterpacht, but this Court, of course, has got a definition in the Regulation which gives it jurisdiction to try this case, and "war crime" to this Court means what is said in the Regulations governing the Court.

The Regulation says: "'War Crime' means a violation of the laws and usages of war committed during any war in which His Majesty has been or may be engaged at any time, since the 2nd September, 1939"

111 (30)

My first point is this, that the only question you have to ask yourselves at this stage, and on this point as to whether there is any war crime, is this: Is it a violation of the Laws and Usages of War to ill-treat Allied nationals when they are committed to your care as guards or are concerned in the management of the internment camp in which those Allied nationals are imprisoned? That is the simple question. We are not concerned with what happened at Belsen, but merely: Would it be a war crime if, when Allied nationals are committed to the care of the staff of a camp, the staff of that camp are parties to their ill-treatment in time of war, because the dates make it quite clear that this is during time of war.

The next thing we must do is to turn to the Laws and Usages of War and see how enemy subjects held by a belligerent should be treated if they fall into the belligerent's way one way or another.

An Allied national, I submit, can only come into the Germans' hands in an internment camp or concentration camp, or anything else you like to call it - the Germans themselves call Belsen a staging camp - in one of three ways. They can either be prisoners of war - and we know from the evidence that quite a few of them were prisoners, particularly Russians - or they can be persons who were living in Germany, Allied nationals, and were interned by them, or they can be inhabitants of occupied countries over-run during the war by the Germans. I confess I can think of no other class so far as the Allied subjects of that camp are concerned. They are either prisoners of war, they are persons who were found by the Germans in Germany or they are persons who were found in the occupied countries by Germany.

Now taking those three classes, what do the Laws and Usages of War require from a person who interns such people, or holds them in a camp? If they are prisoners of war, as I said in opening this case - and I think the Geneva Convention is too well known to us all to waste very much time on it - I think it is quite sufficient for the purpose to quote the last paragraph of Article 46 of the Geneva Convention. It reads as follows: "All forms of corporal punishment, confinement in premises not lighted by daylight and, in general, all forms of cruelty whatsoever, are prohibited". That is Article 46 of the Geneva Convention.

It is significant again that Colonel Smith never mentioned the Geneva Convention from beginning to end, and yet that is, of course, what now governs the treatment of all prisoners of war, and in this camp there were quite a high proportion of prisoners of war.

Supposing there were civilians interned by the enemy because they thought they were hostile to the interests of the German State. As a matter of fact I would submit that really it covers all the other Allied nationals, because I would submit it does not matter very much whether they were residing in Germany itself or in one of the occupied countries when the Germans took them and put them into these camps.

What is the position of a civilian who is interned? That civilian is entitled to precisely the same treatment as a prisoner of war. That is not a new doctrine or an arbitrary doctrine which has been made up for the benefit of this type of case - as was rather suggested were some of the amendments to the Manual of Military Law - because I have noted with interest a ruling of the Judge Advocate General's in January of 1940 on the subject, and far from being an arbitrary ruling with a view to oppressing the German, it was a ruling against the British Government in respect of Germans interned in England, making it quite clear that they had precisely the same rights and were to be treated in precisely the same way as a prisoner of war, because they were virtually prisoners of war.

If the enemy, for some reason, decides that he must make prisoner a civilian, then that civilian is certainly entitled to no less

111 (50)

favourable treatment than a soldier who had been fighting against him.

That ruling of the Judge Advocate General's which I have found is supported as a matter of fact by a case in the High Court, and is based upon a case of Ex parte Liebmann, in 1916 1 K.B. at page 268: "An enemy alien subject resident in the United Kingdom who is in the opinion of the executive government a person hostile to the welfare of that country and on that account interned may properly be described as a prisoner of war, although not a combatant or a spy".

The Judge Advocate General's comment on that is that the annex to the Hague Convention does not expressly deal with or provide for the case of such persons as their case does not appear to have been contemplated in 1917. They are, however, entitled to be treated as prisoners of war.

So whether these people be prisoners of war, or whether they be civilians interned because the Government think that they are persons who are hostile to their regime, then if they are interned during war time they are entitled to the treatment which the prisoner of war is entitled to, namely, as laid down in the Hague Convention.

Supposing, on the other hand, they are to be treated not as persons interned or prisoners of war, but inhabitants of occupied countries, then the remarks which I made in opening this case still apply. Even Colonel Smith was not prepared to deny it. It is made very plain in the Hague Convention which is also at paragraph 303 of the Manual: "It is the duty of the occupant to see that the lives of inhabitants are respected, that their domestic peace and honour are not disturbed, that their religious convictions are not interfered with, and generally that duress, unlawful and criminal attacks on their persons, and felonious actions as regards their property, are just as punishable as in times of peace".

The actual article, Article 46, of the Hague convention says: "Family honour and right, individual life and private property, as well as religious convictions and worship must be respected". That is the duty to an inhabitant.

Now at this stage it is not for the Court, of course, to decide whether or not they think persons were ill-treated in Belson. All they are considering is if Allied people were taken and interned in Belson and were ill-treated and the accused were the persons who did that, and whether that would be a war crime.

Is it not quite obvious from the Geneva Convention, from the Hague Convention, from the rulings which I have quoted, that if persons are ill-treated then the position is precisely the same as if it were a prisoner of war who had been ill-treated, and at no time, quite obviously could Colonel Smith argue that the ill-treatment of a prisoner of war is not a war crime, because every one of us must know that is the commonest one which is tried by Military Courts, the ill-treatment of prisoners of war by the enemy.

III (50)

Colonel Smith's next point was one which I confess I did not entirely understand. He seemed to think that I had made a slip when I read from the Manual, paragraph 442. If you remember, that is the paragraph which divides war crimes into four main classes, the first one of which says "Violations of the recognised rules of warfare by members of the armed forces". Underneath that it says: "Illtreatment of prisoners of war" and "Illtreatment of inhabitants in occupied territory". I made no slip when I left off the words "members of the armed forces", because that is quite immaterial to the point. No-one surely can suggest that if a member of the armed forces is put in charge of the prisoners and illtreats them that is not a war crime, and if, because of the manpower situation, a civilian is put in charge of them instead and ill-treats them it is not a war crime. The thing is too manifestly absurd.

The whole difficulty arises from the fact, of course, - as was pointed out in the ruling that I read to you a few moments ago - that when the Hague Convention was written a military body like the S.S. and so on were not thought of, and it was taken for granted that only a member of the armed forces would guard prisoners of war and only a member of the armed forces would be in a position to ill-treat the inhabitants of occupied countries.

But the point becomes completely academic if one considers the evidence, because although I agree it is wrong in a sense to consider the evidence Colonel Smith must have been considering it when he made that point, because until he makes it, of course, there is no evidence in the charge as to whether these people were members of the armed forces or not. But in fact it becomes academic, because you may remember that Kramer, who was the senior of the accused in the dock, said: "We were members of the Wehrmacht; as soon as war broke out we became members of the Wehrmacht, and I am a member of the armed forces of Germany". The S.S. in the dock - and I will deal with the other separately - are on their own evidence members of the armed forces for Germany. The women aufseherin followed the armed forces around, and therefore the whole of that point, in my submission, falls to the ground, if ever it was a point, and frankly it never was.

The next point Colonel Smith makes is that the crime must be connected with the war. I quite agree - it would not be a war crime if it was not. Where we are in complete disagreement is what is meant by "connected with war". Colonel Smith - I think he never said so openly, - quite obviously argues that point on the basis that the object of the ill-treatment must be connected with the war effort, because he argues that as this ill-treatment of Jews was going on before and continued afterwards, or would have continued afterwards, therefore it was not connected with the war.

Frankly, I would suggest that that is nonsense, because what is being complained of here is ill-treatment of Allied nationals during the time of war. That was not happening before the war and that would not have gone on after the war. Allied nationals are entitled to protection by their Government. This Court is not, of course, concerned with what Germans do to Germans during the war, but what it is concerned with is the protection of Allied subjects from what Germans do to Allied subjects during the war. The mere fact that those people came into the hands of the Germans by the operations of war and were interned or imprisoned by them as the result of operations of war, and that their countries were occupied by the Germans as the result of operations of war, is quite sufficient to turn that into a war crime, and is precisely the type of war crime that is aimed at by the convention, otherwise the Conventions and Regulations themselves would become nonsense.

When a prisoner of war is ill-treated by one of his guards that, of course, does not help the war effort of anyone. In fact, speaking generally, it hampers the war effort of the person who is maintaining that prisoner. It may be due to the sadism of the particular man who has charge

III (50)

of that prisoner, and if that person is an Allied subject who has come into his hands by operations of war, then if he ill-treats that person it is a war crime; it is precisely the type of war crime for which the Convention was made, saying that you must treat prisoners properly and treat inhabitants properly.

Moreover, if one wants to argue this thing to its logical conclusion, is it not quite obvious that the actual internment itself was all done with a view in fact to further a war effort? There ~~were~~ two reasons for interning those people. One was the deliberate destruction of the Jewish race. The avowed object of that was to strengthen the home front and to prevent what happened in the last war. It was an avowed war effort. The destruction of Poland was another. That again was an avowed war aim. The gathering into Germany of persons from France, Belgium, Holland, Poland, Russia, in fact every country that Germany over-ran, was done with the deliberate intention of weakening that particular country and weakening it in its effort to resist Germany. What greater war aim than that? That is how these people came to be brought into Germany, and that is what they were used for.

These people were used for one purpose and one purpose only. They were used to free German man power in the factories, to free German man power on the land, to free German man power for the benefit of the war. That is quite apart from the ones who were directly employed, as we have been told, the ones at Dora who were working on war weapons and I.G. Farben and so on. It is quite obvious, is it not, that these people were brought into the Reich in furtherance of the German war aim and if, having brought them in, they then choose to ill-treat them, insofar as they were Allied subject then, in my submission, that ill-treatment is a plain and obvious war crime and one which is entitled to punishment.

Colonel Smith's next point - he rather brought it into the same point I think - I confess I do not altogether follow. That is where he suggests that the crime in relation to the moving of the prisoner of war from the prisoner of war camp into the concentration camp that anything which happens to him thereafter is thereby excused. That, I confess, I am quite unable to follow. The suggestion is that if you ill-treat a man in a prisoner of war camp that is a war crime, but if you take him outside into the street and do it there it is not. The thing is nonsense. He is saying that if you take him outside into the street it ceases to be a war crime; if you take him into a concentration camp and do it there it ceases to be a war crime.

His next point was that the only solution of a war crime was to secure legitimate means of warfare. It is quite plain that what we are seeking to do in this charge is to say that it is illegitimate to ill-treat Allied nationals. If you get them into your hands during a war they are entitled to be treated according to the agreements which you have made, and we are just as concerned to ensure the safety of our civilian nationals as our armed forces.

I do not seek to extend the principle of International law at all, but I do seek to carry it to its logical conclusion.

I was amused at Colonel Smith's own statement that he himself had advised that contraband should be extended to every form of goods because there was now total warfare. I do not seek to extend anything like so much; I do not really seek to extend at all. What I do say is this, that in this war Germany has taken possession of a great many Allied nationals and surely would never have occurred to anyone that she would, in time of war, set about the deliberate interning of all these people and the destruction of all these races, but if she sets about it, then they are entitled to exactly the same protection which the Conventions had arranged for such persons as are normally taken into the custody of an enemy State, that is to say, prisoners of war and the inhabitants or occupants of countries. I do not seek to explain the principle at all; I merely say

that principles apply and nothing further than that.

The last point I think he takes is the point that the State and not the individual is responsible in International law. That, I think, from his own speech is a bad point, because he admitted that a war crime was the exception to that rule, or one of the exceptions. He gave three exceptions, piracy, run running and war crime. If one wants any authority for it, under the Versailles Treaty, at the end of the last war, which is still in force, it was laid down thus: "The German Government recognises the right of the Allied and Associated Powers to bring before military tribunals persons accused of having committed acts in violation of the law and customs of war".

I think one of the Members of the Court drew Colonel Smith's attention to a note in the Manual of Military Law, and he did say that that note must refer to the Leipzig trial and, you may remember, that these matters were left to the German Government. That is quite an inaccurate statement of history. What in fact happened is that the Allied power at the end of the last war spent so long in deciding what was the best form of international tribunal to try these cases that the German Courts very cleverly stepped in and tried it first and then we were unfit to try them again. So that as it may, even tried by German law it was said that if an individual broke one of the laws and customs of war he could properly be tried, and in fact he was in some cases convicted by the Germans for breaches of these agreements.

Lastly I want to take the main point of Colonel Smith's, and that is the question of whether these people were Allied nationals. Colonel Smith's argument on that point applied, of course, as I understood it to Poles and certain Czechs only. It has no application quite obviously - even if you accepted it - to Russian, French, Dutch, Belgian, Greek, and any other nationalities where the Germans made no pretence of annexing the country. You remember his point that Poland had been annexed and that therefore they were German nationals as far as we were concerned. That again, even if his facts were right, would be an absurdity. Surely nobody in Germany thought that the war was over in 1944. In 1944 the gassing of the Hungarian transport, if my files are right, started about the same time as D Day. Surely Germany did not think the war was already over on D. Day; it is nonsense. If one is going to suggest that can merely say "All right, we have annexed the country", then the Convention does not apply at all. They might say, "We have annexed England" or we might say, "We have annexed Germany". It must have relation to some sort of sense and some sort of accuracy and some sort of fact.

That is assuming the Germans had done such an absurd thing, but they never did, you know. Colonel Smith had before him certain cyclostyle letters and orders which I think my friend Captain Phillips handed into the Court in order that he might found his argument. He carefully refrained from referring to them, because of a proper reference to the red book you will find the Germans never attempted to do that at all.

The only part of Poland which the Germans ever declared annexed was that part which they said was German, namely, the little piece of Silesia which was taken from them in the last war by the Poles, and that is the only part they did intend to incorporate into the Reich. The rest of Poland was merely occupied territory and nothing more.

So far as that argument is concerned, I say that before you can annex a country you have got to finish the war. Whilst the war is still going on the citizens of that country are entitled to the protection under the Convention. The inhabitants are entitled to protection under the Convention, and the war continued, of course, until the defeat of Germany.

Even if the accused did not know that these persons were Allied nationals, I would still not agree with Colonel Smith's argument, because before you start ill-treating somebody or assaulting somebody you must find out, you must not presume things.

Colonel Smith gave three instances of what he was suggesting. For instance, an assault on the policeman or on a girl under a certain age. Well, I am afraid Colonel Smith's criminal law is not perhaps quite so good as his International law, because in both those cases it is no defence that you did not know; it is a matter for you to find out. If you assault a policeman you cannot come along afterwards and say you ~~did not know~~ he was a policeman. If you assault a girl under the age of 13, again you cannot say: "I am awfully sorry, but I did not know she was under 13"; that is no defence.

So far as a girl of 16 is concerned, as a matter of fact there is a particular statutory defence given to young men, but they have to be under a certain age, but ordinarily there is no defence whatsoever.

To take another example - Section 18(4) of the Army Act, stealing public property. If you steal property it is no good coming along and saying: "I did not know it was public property", because you will still be convicted under Section 18(4). If you want to assault people you must find out what you are doing before you do it; it is no good saying: "I did not know". That, in my submission, is a bad point of Colonel Smith's.

That, I think, concludes Colonel Smith's points. There were several points made by other Defending Officers, and there is one which I would refer to in passing, a point made by Major Cranfield on the charge.

Major Cranfield asks the Court to say that if one strikes the named persons from the charge - and he strikes them out for varying reasons until, I think, he struck them all out - then the charge would be bad for vagueness. With that, I am afraid, I must entirely disagree. To give an instance of a case which has just taken place in Hamburg, the submarine Pileus. As one did not know who the victims were one could not put the names in the charge, and that is common to the majority of this class of case.

The names are only put in the charge where you happen to know them, with a view to preventing the accused subsequently saying: "I was prejudiced, of course. You knew perfectly well who these people were but you did not put them in the charge". But, of course, the charge is perfectly good without the names being put in at all, and that is a very common thing.

May I quote the Llandoverly Castle case, which was tried by the Germans themselves. The names of the victims were not put in that case because certain boats were sunk by cannon fire by a submarine, almost exactly the same as the Hamburg case all over again, and nobody knew who was in the boats; no names of victims could be given and the charge was the usual charge of Allied nationals. So far as that point is concerned, in my submission it falls to the ground.

The charge is required by the Regulations to fall within the Field General Court Martial procedure, and the Field General Court Martial rules say the charge may be drawn in any ordinary language. It is quite obvious that the accused are not prejudiced here. The charge quite plainly makes it clear to them, in my submission, who they are alleged to have ill-treated.

...then that to the legal point

One comes then to the legal point of superior orders. The first thing I must say is this, that a defence of superior orders is one for the Defence to set up and prove. It is not, as my friend Captain Phillips says, for the Prosecution to disprove. Providing I prove to your satisfaction that certain people were ill-treated, then if my friends wish to rely upon the fact that it was done on the orders of a superior and that that exonerates them from responsibility, that is for the Defence to set up and prove.

That is rather an important thing in this case, because, taking the point quite shortly, with the exception of the gas chamber every accused has said it was forbidden to ill-treat the people, although various Defending Officers have set up the plea of superior orders. All the accused have expressly rejected it - every one of them. They have all said it was forbidden and that they did it against orders.

If the Defending Officers put up a point, they must put up a point which is supported by their accused, and the accused absolutely refuse to take that point. The accused have said that ill-treatment of prisoners was forbidden, beating the prisoners was forbidden, and they say "We did it against orders".

THE JUDGE ADVOCATE: I got the impression, rightly or wrongly, that a very large part of Colonel Smith's argument, certainly under that head, was directed to Auschwitz and the gas chambers. I personally do not think that it is being put forward here that any ill-treatment was the result of any orders emanating from above, and I do not know whether you agree with me, but that was the impression left upon my mind.

COLONEL BACKHOUSE: I except for the moment the gas chambers. The position from the evidence, I submit, is quite clear. Although on paper these things were not allowed, in fact every encouragement was given to them.

So far as the gas chamber is concerned, again the Defence there, I think I may fairly put it, was on the grounds of superior orders - if it was put at all. That is one where the accused themselves say they were acting on superior orders, but in order to succeed in that Defence the accused must satisfy you that they did not know that what they were doing was wrong, and there is not one of them who has dared to go into the witness box and say that - not one of them.

To succeed in the Defence of superior orders they must, even by German law, not realise that what they are doing is wrong, or by English law, or in fact by any other law.

It has been argued in this Court in both ways. It has been argued by Colonel Smith that a note in the Manual is wrong; it has been argued by Captain Phillips that even if the note in the Manual is right then they would be entitled to rely on this defence of superior orders.

But I want to refer you to the Manual for a moment on that point. "The fact that a rule of warfare has been violated in pursuance of an order of the belligerent Government or of an individual belligerent commander does not deprive the act in question of its character as a war crime; neither does it, in principle, confer upon the perpetrator immunity from punishment by the injured belligerent. Undoubtedly, a court confronted with the plea of superior orders adduced in justification of a war crime is bound to take into consideration the fact that obedience to military orders, not obviously unlawful, is the duty of every member of the armed forces and that the latter cannot in conditions of war discipline, be expected to weigh scrupulously the legal merits of the order received. The question, however, is governed by the major principle that members of the armed forces are bound to obey lawful orders only and that they cannot therefore escape liability if, in obedience to a command, they commit acts

which both violate unchallenged rules of warfare and outrage the general sentiment of humanity".

Well, Captain Phillips rightly says that there can be no dispute that the gassing of these millions of innocent people in gas chambers has outraged the general sentiment of humanity.

Can this Court for one moment believe that the persons engaged in that did not know that what they were doing was wrong and was contrary to every law and custom of war? As I say, those who have been in the witness box, not one of them has dared to set up the defence that they believe it was right.

It has been suggested that it was legal under German law. I say "suggested" advisedly, because Colonel Smith was quite unable to produce any authority whatsoever to suggest or to prove that those gas chambers were legal by German law, and he fell back on a most extraordinary contention. He fell back on a Decree, the date of which I am not quite sure. He gave two dates, one in June and one in February of 1934 or 1935. He put this proposition to the Court: that that Decree gave absolute power to the competent authority, so that any order that Himmler gave automatically became law. An examination of the Decree, which is before you, one of the cyclostyle copies, shows that it is absolutely nothing of the kind whatsoever. What that Decree in fact did was to say that cases against certain privileged bodies which were brought in the Courts would not be tried in the ordinary Courts but would be tried in the Courts of those privileged bodies, and that is all.

It gave the S.S., amongst other people, immunity from trial in an ordinary Court for matters which they considered to be matters of discipline, so that then, of course, to be tried in S.S. courts. That would give absolute legislative power to Himmler, so that every word he said became law, and that Decree did give the S.S. the privileged position by which, if they committed crimes against German law, they could not be tried for that in their own Courts. Therefore, if the crime they committed was one which Himmler himself was condoning, in all probability they would get off, and that is the highest you can put it.

It is very much the kind of legislation that one finds coming nowadays so very often from a Minister. The Minister is empowered to make Regulations, and any appeal from any Tribunal held under the Regulations comes to the Minister. Where you have a Regulation of that kind it is quite true that the officials of that Ministry can do very much what they like, but to say that that gives the Minister power to write a letter to somebody and everything he says in that letter would become law is an absurdity.

Look at the true legal position of these gas chambers. Colonel Smith himself says: "If you ask me to produce a law book legalising the gas chambers at Auschwitz and Belsen, of course I could not. Every one of them knew gassing was wrong".

Now how can this be said to be done even under cover of authority when it was kept secret even in Germany, when they were forbidden to talk about it, when any records that were kept were covered by the words "Special treatment". Is that something legal? Is there any pretence of legality about it? In my submission, there was, from beginning to end no pretence of legality about it. It was kept quite deliberately secret from the German public as well as from the world. Steps were taken to keep it secret. Documents were not forged, but documents were created so that there was no record of these murders that were going on daily, and everybody in that camp knew that it was wrong, including Kramer, including Klein, including Hoessler.

What did Mrs. Kramer say about it? You remember I asked her: "Surely your husband knew this was wrong", and her answer was: "Yes, of course; naturally".

Now Klein, of course, knew it was wrong. He agreed he was a murderer. There was no pretence of legality about it; there was no pretence that this was or had any part in German law; it was something which was going on outside the law in secret, in places from which the civilian population had been removed, as we are told they had been from around Auschwitz, and every possible means was taken to keep it secret.

We are told by some of the accused that even the prisoners were not allowed to watch when transports were taken away. There is no general agreement on that. Of course, we know that Kramer was specifically pledged not to speak about it, and he took the view, or still takes the view, I think, that his word not to speak about it excuses him for committing perjury when he first made the statement in this case about it, when he denied the existence of these gas chambers at all.

In my submission, therefore, any suggestion that this was done in course of law - which is a matter for the Defence to prove - has completely failed.

If one leaves the Courts of law out, then I say there is not one of the accused who has dared to suggest that they thought it was right; they all knew it was wrong, and unless they thought it was legal and unless in fact it was legal then, in my submission, that defence offers them no protection.

Colonel Smith has, of course, queried the note in the Manual, and he has tried to set up that the original text is the right one. He is really out of line with everybody on that. Colonel Smith may think himself that the Manual should not have been changed. Colonel Smith may be still living in the days of Colonel Edmunds and Oppenheim, but that amendment in the Manual was made, as you will see from the note to it, to bring it in line with almost every writer on the subject, including Lauterpacht himself, who wrote it, and Professor Brierly. As a matter of fact, the suggestion which Colonel Smith makes that that was done when war crimes were being considered in 1944, to get the matter straightened out, is not quite accurate, and Colonel Smith gave us one or two little lectures on how these things came to be written. The learned Judge Advocate took some point himself on the fact that it was taken out of step with the American Army but it was in fact made in consultation with the American Judge Advocate General, and it is, of course, in line with American law as set forth in America, as opposed to the American Manual, which has not yet been amended.

The only further point I think that I want to deal with in any further detail before I deal with the evidence is the question of collective responsibility which was raised by Capt. Phillips. He is quite right when he says that the prosecution puts this case that all these accused in the dock were parties to a general conspiracy, if you like that word - conspiracy, concerted action, joint action, unit, anything you like - they were parties to a conspiracy, which is the simplest word to use, to illtreat the persons who were under their care. Of course, I do not suggest that the girl Hahnel is here because she once hit a girl in a bath with a whip. If the prosecution's case is right she is here because she is one of a body of people who were habitually illtreating the persons under their care, and the fact that she hit somebody in a bathroom is merely brought in to show that she was taking an active part, however small, at some time and was not standing apart from this conspiracy. That is all that these matters are brought in for.

A great deal, of course, was said, particularly at the beginning, about the fact that witnesses were asked -----

THE JUDGE ADVOCATE: I am not very clear on what you are putting now on the case of Hahnel -----

COL. BACKHOUSE: I am not putting it on the case of Hahnel particularly -----

THE JUDGE ADVOCATE: Will you listen, please, to what I have to say first? The Court, let us say, find that Hahnel did do what is alleged against her, but they find as a fact there is nothing to show that she was taking part in any general practice of illtreatment. Are you asking the Court to convict her on this charge sheet in respect of specific actions even if they do not feel that she was a party to a more general illtreatment? I am not clear on that.

COL. BACKHOUSE: It would undoubtedly be open to the Court to do so. If they thought so it would undoubtedly be open to the Court, if they were satisfied that she illtreated a prisoner when she was one of that staff, because by doing so she would undoubtedly be a party to the illtreatment of prisoners and I should certainly ask the Court to find her guilty. The extent of the punishment they think she should have would be entirely a different matter. If they thought she was guilty of an isolated incident of illtreatment, or merely a party to a very limited illtreatment, naturally they would not want to visit any great wrath upon her, whereas if, on the other hand, they thought she was a party to the extent of wholeheartedly joining in on this conspiracy then you would naturally take a different view, probably, as to the amount of her responsibility, but if they were satisfied that whilst she was on that staff she illtreated somebody then I would say she would be a party to the illtreatment of the persons concerned.

So far as the general conspiracy is concerned, a lot of people were asked: did you ever plan with Hahnel; did you ever plan with so and so? Well, of course, proof of a conspiracy is always a matter of inference, or almost always, to be deduced from the criminal actions of the parties to the deed done, and a conspiracy may very well arise between persons who have never seen each other and never corresponded together. "It is not necessary for the persons to have concocted the scheme the subject of the charge nor that they should have originated it. If a conspiracy is formed and a person joins in afterwards he is equally guilty as the original conspirators". I am quoting from the well known case of the King against Murphy (8 C.A.P. 287) and it has also been held that these principles apply even though the indictment does not specifically allege a conspiracy, if the acts amount to a conspiracy. That is, of course, the way in which this case has been put from the beginning by the prosecution. It is not suggested for one moment that some of these minor figures in the dock went with Kramer into his office and hid behind cloaks and arranged some Guy Fawkes plot. That is nonsense. What is suggested is that finding themselves in the S.S., and finding this conspiracy to illtreat the persons who were interned, they joined in and assisted it and were parties to it.

That is the way in which it is put, and that is the way in which the prosecution puts this case. I do not suggest that Hahnel herself was in this conspiracy, but these persons have taken part; they have, to quote the charge, been parties to the illtreatment, and that is how the case is put to you.

It is suggested by I think Capt. Phillips that you should not convict unless you are satisfied that the person concerned was, as he put it, in control of the situation. He puts his argument rather like this: take this girl who had beaten somebody; if she had not illtreated someone it would not have made any real difference. That is a very facile argument because it is quite easy to say, talking about the gas chamber selections, well if this girl had not marched them on the road somebody else would have marched them; she really did not help by marching them on parade, but if all those girls had refused to march them on the parade they never would have been taken to the gas chamber. It was by that collective disclaimer of responsibility that the crime was done.

Any one man in a mob lynching, the actions of that one may might be said to have no effect on the lynching, but if the whole mob did not do the lynching the victim would not die, and each person who takes part in it, however small, cannot excuse himself and defend himself by saying: well, it did not really make any difference my being there.

At one time on the question of the gas chamber selections Klein said: "My only part in the matter was to say this man is fit this man is unfit, so I am not responsible". The S.S. man says: "I know I was there, but I was not responsible because the man who did the selecting was Klein" and so on and so forth. The answer is that if a number of people take part, whatever that part may be, **however small it may be, they are parties to the whole.** The question of the degree of their responsibility is a matter of punishment but not a question of whether they are guilty or not.

Those are the legal points with which I wanted to deal. I have deliberately left until the end the question of the Polish prisoners in the dock and I want very shortly to put my submission with regard to them. In the ordinary way, and on the face of it, it may be a little absurd to suggest that it is a war crime for these Poles to be beating other Poles in concentration camps, but surely the position is this, if you believe the evidence and that is what the prosecution ask you to do, that these people from whatever motive, whether it be to save themselves from being beaten or whatever it was, accepted positions of responsibility in the camp under the S.S. and they beat and illtreated prisoners acting on behalf of the S.S., then they have identified themselves not with their own country but have identified themselves with the persons who are doing this thing, that is to say that they have identified themselves with the Germans, the S.S., as opposed to the prisoners they are beating. If they allow themselves to be made the agents of the S.S. to illtreat prisoners then, in my submission, they are precisely as guilty as the S.S. themselves.

Let me put an illustration the other way round, which sometimes makes it easier to understand. Suppose, for the purpose of argument, that one of our prisoner of war guards in England was a sadist and decided he would beat the German prisoners, if he beat them quite obviously he would be committing a crime, it would be in fact a war crime whether he was tried for a war crime by German authorities or by us; but supposing he goes to one of the German prisoners in that camp and he persuades that German prisoner to accept a position under him and persuaded that German prisoner on his behalf to beat other prisoners and that German prisoner did so, would that be any the less a war crime even though it is committed against his own people? In my submission that is quite plain and if you accept that fact, that these particular Polish prisoners who are here in the dock -- and not merely the Polish ones but also Schlomoiewicz who is not a Pole but an Austrian -- sold themselves to the S.S. and then they acted on behalf of the

S.S. in illtreating other prisoners then, in my submission, for precisely the reasons that one is entitled to punish the Germans you are entitled to punish them for illtreatment of people. It does not very much matter whether they are Germans, whether they are Austrian or Polish, or who they are, if they decided during time of war to take up a position over the others and illtreated them then they may be punished because it is a war crime if they illtreat either an internee or a prisoner of war.

Those are the points of law which I want to make. Finally I would like to read a little of the article by Professor Brierly which I read in opening because I do suggest that it sums up the position in the whole of this seemingly intricate but really simple matter of what is a war crime and what can be properly punished. I will not read the first part, but he says: "For there is one clear and absolutely fundamental principle running through the laws of war which enables us if not to define war crimes or to make an exhaustive list of them at any rate to recognise one when we see one.

"This is the principle that the only kind of injury to the person, or the property of an enemy that the existence of war legally justifies is one which serves some military purpose. All wanton injury, injury which does not appreciably advance the military object of war, which is victory, is forbidden by the laws of war, and he who commits such injury commits a war crime.

"Clearly that leaves open a lot of border line cases but most of this difficulty disappears if we imagine the sort of question which a Court will have to answer: can this killing which would normally be murder, this injury which would normally be unlawful wounding, this taking of property which would normally be theft, be justified as an act of war. If not it will be a war crime".

That is the question which I ask the Court to ask themselves in relation to the facts as they will eventually find them.

I turn now from the law to deal with the facts, but before I go on to the actual facts I think I should deal with the question of the value to be placed on the written evidence in this case. The regulations for the trial of war criminals, under which this case is taken, have provided something which is not usual in criminal cases in England and that is they have provided a power to the Court to consider evidence, hearsay evidence, written evidence, statements, documents, oral statements, affidavits and so on, which would not normally be admissible in criminal cases. That was done for the very obvious reason that in any case of this kind many of the witnesses would not be procurable.

When Belsen was first overrun I think it is common ground that its existence as a concentration camp was quite unknown and was quite unexpected. One did know that there was some form of camp there, it was thought to be a transit camp as it had previously been, and you can imagine that everyone was quite obviously out to do the best they could for the internees. At that time there was in fact no organisation for the investigations of war crimes in 21 Army Group and, as you have heard from Major Smallwood, a team was created consisting of Major Smallwood and Major Bell, both very experienced members of the bar. I think the question of their respective

seniority was raised, but I do not think it was very material, and the answer is that they are very senior members of the bar who had been employed in the Judge Advocate General's Department throughout the war. They were reinforced by Capt. Fox of the Special Investigation Branch and a number of his N.C.O's.

They got to Belson, as they told us, to find there was, I think, one or possibly two Military Government officers who were trying to take some form of statements and they settled down to try to get what evidence they could whilst it was still available. They have to tell you that they found some good interpreters. In particular Miss Neumann, I think Major Smallwood said, was well above the normal standard met with in the High Court; Duschenes, though not perhaps up to that standard, was a good interpreter.

We could, of course, under the regulations, have merely taken a statement by anybody and we could have put them before the Court under the regulations, but from the outset it was decided that we should take great care. We realised the responsibility that was upon us in making evidence, in a sense, making a document which could not be cross-examined in Court, and you have heard Major Smallwood's account of what was done and you have heard from Major Champion the account of what was done after Col. Genn's team arrived, of the care which was taken to ensure that statements were, in so far as they could be with examining officers who were experienced lawyers, as accurate as they could make them. Both Major Smallwood and Major Champion have told the Court of the care with which they were taken but of the difficulty which arose whenever anybody came to mention dates and you must have noticed that that/ ^{was} experienced both by the prosecution and the defence.

Just to give a quick incident, you will remember the girl Starostka who in spite of the greatest persuasion from myself, because I did not want to take an unfair advantage, --- I did my level best to persuade that girl that from her number she must have gone there in a different order, but she stuck out for a long time. You will appreciate that I was not in a position to apply that pressure to my own witnesses, I could only do it with the defence witnesses when they called a witness.

The internees, of course, had no calendars. It was not as though they were in there for three months and may well have had a piece of paper and ticked off the days as one used to do at school before the end of term. They knew they were in there for years and had no hope of getting out. There was no point in counting time and any attempt to get the right time was obviously hopeless. To give a very short instance you may remember the accused Kopper and Guterman, Synger, and I think somebody else all came on the same transport together and they gave the date as July, November and December, although they all agreed they came on the same transport. They did not even know whether it was summer or winter. That must be borne in mind in considering these affidavits. In fact I think it was Major Champion who said that even when they said three days before the liberation it may well have been three weeks; you could not pin them down to a date.

What I would suggest is this, that the only proper way of looking at these affidavits is to consider each affidavit, consider it in much the same way as you would consider a witness in the witness box, and say to yourselves, having read them and from the knowledge you have from the other evidence in this case: "I am prepared to accept it" or "I will reject it", or, having considered it in relation to the other evidence, you may properly say: "I accept some of it as correct" in precisely the way you would if you had the witness in the witness box. If you have a witness in the witness box you may say "Well, I am quite prepared to believe that she was in cookhouse No. 1, but I do not believe her when she says that she was never there after half-past three, or whatever it may be".

I would suggest if you look at those affidavits carefully (and I invite you to and that is why I am not going through them all) you will find over and over again internal evidence of the care which was taken in making these affidavits. It was rather put by one of the defending officers that you often find the phrase such as: "I cannot say whether the man died". Quite obviously what happened was this, that the officer taking that affidavit was taking care that it was not put in as a man having died if the witness could not say so. In other words it has been cut down. He has only put into the affidavit what the witness is prepared to swear to.

A rather significant thing is the statement of Kopper. I will, of course, deal more fully with that when I come on to Kopper, but you may remember how she made her statement, as they all did in the ordinary way, to Capt. Fox. Capt. Fox had it typed out and then she reported to Major Champion to swear it. She said: "Well, I am not going to swear to this unless I see that man. I think it is the right man". Capt. Fox was obviously putting the statement to her and asking her to swear it. If you look at the original of that statement you will see that story is obviously true because it has been written in by Major Champion in ink and I have now had an opportunity of seeing him and I am quite sure. That is just a small point as to the care which was taken to get these affidavits as accurate as possible.

There has been criticism of the affidavits and there are some, I have no doubt, which you think are uncorroborated in place, but I ask the Court to say that most of those affidavits have been corroborated in quite extraordinary factors by small points. Some matters which sounded at first really nonsensical were corroborated later by actual evidence given, and let me give you another very small point in one of the affidavits, I do not pretend to remember which now at all, when it was said that so many people escaped from the wood kommando that they took even sick girls and made them go out to do this very heavy work. That sounded rather ridiculous at first, taking sick girls out and making them do this work, but you suddenly find one of the accused, on a quite different point about working parties, saying that they took 200 girls from a compound to work with the wood kommando because so many kept escaping, and that is from the compound where the sick people were.

Little points like that you will keep finding cropping up and I would ask the Court to think a long time before they reject the statements which have been made and to remember that each of those affidavits was taken on oath and that before it was made an affidavit it was tested in so far as it could be by an experienced member of the bar who was quite impartial in this matter. His impartiality is shown by the fact that in a number of the affidavits you will find that points are made in favour of various accused and there are other affidavits which have in fact been produced by the defence which have been taken by the war crimes investigation team purely in the interests of the accused. As I think Major Champion said, if the accused asked for any witness then he tried to find him and take a deposition.

There is another thing I would point out with regard to these statements before I pass on to the facts. Apart from certain phrases which Ehlert suggests were not in strict accordance with what she said, and apart from, I think, certain phrases which Lobauer took exception to (and they were both of them very minor - I think she objected to the word "often") there is not one single instance where an accused has suggested that there was the slightest impropriety in the way in which these statements were taken, not one. Statements were taken from the accused and that I think is a striking thing in this case and shows the fairness with which this investigation was pursued and it is quite clear it is an unusual thing (and I think the learned judge advocate will so advise you) in a criminal case to find that no exception is taken by any accused to the manner in which the statements were taken. No one accused has complained about the way the statement was taken from him or her.

III (50)

With regard to the witnesses themselves, you have heard Major Cranfield divide them into three classes; some he accepted unconditionally, such as Brigadier Glyn-Hughes and Dr. Leo and Mr le Druillenc, others he accepted with suspicion and others he rejected as being unreliable and exaggerating their stories. Again I am not going to try and go into a character study of each of these many witnesses. The Court have seen them all and the Court must have formed their opinions at the time they gave their evidence either to accept that evidence or not, or accept one part and reject the other, and I am quite sure that an attempt at this stage to justify or not justify a various witness's story would not be of assistance to them. I would go to this extent and say this. It was suggested to you that a lot of these little girls who were here had rather got together and made up their stories and that they were unreliable. I think at one time there was some sort of suggestion that Dr. Birko was mixed up, but there was a suggestion that these girls had got together and had exaggerated and telescoped their stories, but if you are doubtful as to whether things really happened none of the accused has had an opportunity of combining and going into collusion with the witnesses for the prosecution and none of the witnesses called for the defence, quite obviously, have been in collusion with the witnesses for the prosecution. But do not you get precisely the same thing from the witnesses for the defence as for the prosecution?

It has been suggested that I may not try and discredit the defence witnesses on some points and accept them on other points. I reject that submission entirely. I am perfectly entitled to ask you to believe what a witness for the defence says on some points and say that the witness has exaggerated his story or cut it down on others, and it is a matter entirely for the Court to give such weight as they think fit. To give an instance of what I am saying, one of the witnesses (whose name I could not pronounce even if I could remember it) called by the Polish defending officer gave what I would suggest was a very restrained and very plain account of life in a concentration camp, and I would have no hesitation in asking the Court to accept that. That does not prevent me from saying: but, of course, when you say so and so did not beat anybody you are saying that because you are a very good friend of his and you are leaving him out. The Court are perfectly entitled, if they think fit, to accept that man's evidence in its entirety or in part with regard to the general conditions of a camp and the way he was treated and so on and to reject it in respect of that particular friend whom he is trying to defend.

I would suggest this, that time and again it has occurred that you have had the best evidence of the general conditions in the camp from a witness who was called for the defence who has not been in Court and heard the other evidence, and they gave you precisely the same story as that of the prosecution witnesses.

There is just this further point I would make and that is in considering these depositions in this case you must remember the evidence of both Major Smallwood and Major Champion that unless they thought the witnesses were reliable they threw out the affidavit and did not take it again. You must remember this. It has been possibly suggested that there was no evidence taken for these accused. You must remember that all the persons who were brought up against whom allegations were made are not before you by any means, and Major Champion made that quite plain that where there was evidence for the defence it was taken, then it was thrown out, so it must not be taken because there are not many affidavits for the defence that those ~~teams~~ did not take other affidavits.

That, I think, leads me to the end of what I want to say with regard to the law and I now want to come on to the general case for the prosecution. The way I invite the Court to look at the facts is this. I suggest to you first you should come to a conclusion as to what really went on at these two camps, Auschwitz and Belzen, that is the general picture of what was happening there and then to consider how the individual persons fit into that general picture.

Auschwitz.

What is the general picture of Auschwitz? You have got only one picture, in my submission, presented to you by both the prosecution and the defence. You have got this camp in Poland in a place where even the S.S. objected to being posted. You have seen the type of place it was in the film which was placed at the Court's disposal by the Russian Government. You have heard what went on there from a variety of people. You have heard from the prosecution witnesses what went on there. You have read in the affidavits made by the prosecution witnesses what went on there. You have heard from the S.S. men and women who were there what went on there and you have heard from men and women called by the defence what went on there as well.

Can the Court have the slightest doubt first of all about the gas chamber or the selections which were made for the gas chamber? It is quite obvious they are no longer denied, that is really the position, and it is now freely admitted that there were in the camp, Berkenau, five gas chambers attached to the crematoria, four of them carefully constructed ones and one a make-shift because the others could not keep up. It is now freely admitted that there were attached to each of these gas chambers a crematorium and that they could not keep up the pace when they were really busy so they had to dig in addition pits where bodies were thrown and burned by oil or petrol being poured upon them. People were gassed night and day. On parades there were slack periods and busy periods but on other parades people were being gassed night and day. We have been told, and I suggest there can be no doubt about it, that these gas chambers could carry 1,000 each at each gassing and that during some periods people were saved up until there were 1,000 in order to save wasting the gas. In the busy period the Sonderkommando was working so that there was a gassing every hour and they were working in double shifts day and night.

You heard that utterly foul picture painted by Dr. Bendel. Can you have any doubt about it at all? It is hardly disputed. The persons who were being put into those gas chambers were not people who had committed any crime, they were not people who had committed any offence of any sort or kind, they were ^{not} people who had been submitted to any trial, they were purely and simply persons who were no longer fit to work for the Reich and although Kramer would not admit it to me in cross-examination when it was put to him in re-examination he said: "It was a doctrine of my party to destroy the Jewish race". I would submit to you that you have no doubt whatsoever now that whatever other places may also have been used in the course of this destruction (although I suggested some places to some of the witnesses there has been no evidence before the Court, and I am not very concerned with that) in Auschwitz alone literally millions of people were gassed for no other reason than they were Jews. The people who were gassed were the old, the weak, pregnant women and children under 14. Those were the people who were being selected and put into these gas chambers and quite blatantly murdered.

I would submit to the Court that no one could for one moment believe that that was anything but murder and that it is an obvious crime against humanity. As I said in opening, what people may have to answer for in other courts one does not know but we are concerned in this Court only with the accused in the dock. Many of the people gassed were allied nationals who came into the hands of the Germans because they were scattered around the various countries. The Hungarians were brought in at a later period and, of course, it is rightly argued that the Hungarians were not allied nationals, but you must take the picture as one to see what was happening in this camp, to see what part the various people were taking.

Here was something going on which completely defeats the imagination. Dr. Birko said that from records which had been secretly compiled by men working in the Sonderkommando there were no less than four million people taken through the crematorium in Auschwitz. I do not very much mind whether you accept that figure as being an accurate one or not because how those records were kept one does not know, but it is obvious

it must be something very much like it. These selections were made on a variety of occasions. It is common ground that in the early days there was a ramp near the gate, which was later extended down the main road, and the transports came in there and the selection took place on that ramp as they came out of the trucks. It is common ground that a doctor attended the parade and, although (this is subject to a slight exception I will make afterwards) also it is common ground that the doctors really did the selection a number of witnesses for the prosecution say that various S.S. men and women took part in the actual selection. If you look at the evidence you will see that most of them say that, but now and again although there was a doctor doing the selecting sometimes an S.S. man would say: "Here is one that might go with them" and so on, and that is the part which it is suggested the S.S. men took.

I think the picture is a fairly simple one. It is plain that the doctor did attend and decide those who were to die and those who were to live. Then the ones who were to die were sometimes marched to the nearest crematorium or more often put into trucks and taken to it, taken direct there and never went into the camp at all.

We have had a lot of different evidence as to who was on duty on those occasions and it will be for the Court to consider very carefully the different witnesses who have given evidence with regard to it and the different statements of the accused, but what I would suggest to you is that it is quite clear from the evidence that the Lagerfuhrer, as a rule, was there and that some blockfuhrers were present, whichever happened to be on duty. I think we have all been making a mistake at the beginning of this case (of course we have learned a lot during the trial about the S.S. organisation) of thinking there was a block fuhrer to each block and was responsible for the block. It is quite clear, I suggest to the Court, now that the true position is there is a block fuhrer on duty at the gate and then there are two or three blockfuhrers on duty walking about the camp not attached to one particular block, rather like a barrack warden, as opposed to being in charge of any particular blocks, rather a leader of blocks than leader of a block. There were obviously men from the guard company there who had come in with the train.

It is my submission that all people who took part in those selections, knowing what they were, were equally guilty, whether it be the doctor who takes his part by saying "This one to live, this one to die" or the man who pushes him into one particular compartment or the other, or the man who leads them, or the man who gasses them. When people take part in a murder by poisoning it is not necessary for them to do the actual deed in order to be convicted. The man who buys the poison and hands it to the murderer, knowing what it is going to be used for, is equally guilty, and the man who brings the victim to the tea-table, knowing that the poison is going to be administered there, is equally guilty.

I would submit most strongly to the Court that any of these people who took part in these parades, knowing what they were for, have made themselves a party in one degree or another to the murder of those persons who were taken straight from that parade and murdered.

The second class of selections which took place were selections in the hospital. We have heard a good deal of evidence about that and again there is no very great dispute. I would suggest to the Court that it is plain what really did happen was that periodically a doctor accompanied by the Lager alterer apparently most of the time and, in the case of women, by an Aufseherin went round the hospitals and all the sick Jewesses were paraded, paraded asked, and those who were obviously not going to recover quickly were paraded into a truck, naked as they were, and driven to block 25 where they were detained until there were sufficient people for the gas chamber.

There again I would say to the Court that the prosecution will ask you to say, if you accept that evidence, that any person who took part in that, whether he be the doctor, whether she be the aufseherin, or whether he be the lagerfuhrer, is equally guilty of the murder of these people because he or she knew precisely what they were selecting, knew exactly what was going to happen and where they were going, and as guilty of their death as the farmer who selects his cattle to go to the slaughterhouse.

There is a third type of selection we have heard about and that is the selection which took place in the camp and here, for the first time, there is a certain amount of dispute as to what really happened. You may think that that dispute has emerged from the fact that the practice was not the same throughout the whole time. Most of the witnesses say that only Jews paraded in the general selection in the camp, but latterly the Polish accused and witnesses have maintained that that was not so. In particular you may remember Starostka saying that if only Jews were ordered to turn out everybody knew what was happening and, therefore, there was utter chaos and confusion and it was the practice later to turn out the whole camp with the Jews on one side and Aryans on the other and only Jews selected.

Is not the real answer that that is only a development of what Starostka said happened before. If the opinion of a number of people is that you are going to murder them naturally they will not assemble with any great will as if they are going to a party. Is not it obvious that if the Jews only were brought on parade that would lead to chaos and so they followed it up by turning out the whole of the lager with the Jews on one side and the Aryans on the other?

Be that as it may, although a lot of people have tried to pretend that they did not know what these parades were for is not it obvious from the body of the evidence that everyone knew what they were for? You have had an account of it from Starostka, and I would say at once that very much of Starostka's evidence, in fact all Starostka's evidence except for her own part, I would ask the Court to accept.

She was the lager fuhrer and later on lager altester. She knew what was happening and she says freely and frankly: "I attended these parades; I took down the names of the prisoners". There is really no dispute between the prosecution and Starostka on that point, but is not it quite obvious what happened, the real answer, the picture of what happened, that these people lined up knowing perfectly well what the parade was for, knowing perfectly well that if they were weak or sick they would go to the gas chamber.

Do you really believe that all these people stood still and that there was no screaming, no shrieking when children were selected or when mothers of children were selected, when people were selected knowing they were going to die?

Can you for one moment believe the suggestion that there was no need to use force? Some of the accused say that but others are more outspoken and say of course there was screaming, of course there were people who tried to avoid it, of course there were people who ran away.

You may think that in many respects Grese is one of the most honest witnesses in this court. She makes no bones about what she did. When prisoners ran away she went after them with her whip and brought them back and thrashed them. She tells you so. Witness after witness also gave you an account of the beatings, etc., and is it not quite obvious that these many witnesses who came and gave evidence for the prosecution (you will remember the many Jews who came and told us about the parades, and who were cross-examined at the time by the defending officers to suggest that these things did not happen) were telling the truth? —

Then there is the last type of selection which has only been mentioned by the last one or two witnesses, the general selection. I think I am right in saying that it was Starotska who first mentioned these general selections, and naturally I made enquiries with regard to them and put the results of those enquiries to the remaining persons who were available. You will remember that I got agreement to the question I put to the effect that there were two other kinds of selections which might be termed general selections.

It became the custom for some people at the camp gate to be selected. As they came back in the working party they were made to double the last bit and those who fell out were selected. Naturally, persons who knew they were in a weak state of health, or had reasons to suspect that they would not be able to pass the selection at the gate, began to hide in the camp. Then the SS developed a new plan. When the working parties had gone out, they held a parade of everybody left in the camp. They were marched up and lined outside block 25, and only those who could give a proper account of themselves escaped the gas chamber. These are the types of selections.

What were the duties of the various people? I think everyone is agreed that it was the doctor's duty to make the selection. Hoessler says it was the duty of the aufseherin at the selection parade to maintain order, and the capos were under the orders of the aufseherin, doing what she told them to do. The Lageraltoster has told us herself that she took down the numbers of the persons on the selection. She also told us that all the aufseherin who happened to have camp duty that day, together with the blockfuhrer had to attend these selections.

For a long time an attempt was made to suggest to the court that it was impossible to tell the purpose of these parades. You will remember, I think, that Volkenrath maintained to the last that she knew nothing about these things. There is, however, in my submission an overwhelming volume of evidence from the accused and their own witnesses to show that that is not so.

Leaving out the witnesses for the prosecution, I will take Hoessler. It has been suggested to him that all selection parades formed up in the same way, but he said no, it depended for which purpose the selections were made. The witnesses were right when they said only Jews had to parade for these selections. Lothe said that whenever a selection took place, all the capos were concentrated in one block and it was strictly prohibited for them to leave that block during the selection. Lebauer said there were definitely different orders for the selection for the gas chamber. Then there was that girl witness called Schopf, the one who came in in black trousers and a smock. She said it was quite easy to tell when it was a selection for the gas chamber, because only Jews were paraded. Well, it is, of course, a matter for the court; but I would suggest that that girl was the least intelligent of the girls who have given evidence in this court, and if it was quite obvious to her, do you seriously think the aufseherin Volkenrath, who had enough intelligence to become an oberaufseherin, did not know?

As Schopf said, everybody know that block 25 was kept specially for people who were going to the crematorium. The blockaltester took them to block 25 after they had been selected, and from there they went to the crematorium. She was asked what happened if a woman tried to escape, and she said the blockaltester gave her a hiding and put her back. That is how it was translated.

I do not want to labour these gas chambers because, as I say, substantially there is so little in dispute about them. I must, however, labour them to this extent, that we have become accustomed in the last eight weeks to talk quite airily about selections, and we have got quite used to the words "gas chamber". We have also lost the horror which we had when it was first mentioned; and the sole reason for this final speech by the prosecution is not to introduce prejudice or to press the case, but to put it back into perspective.

We have spent the last thirty days in dealing with what I might call the minor matters, not minor from the point of view of the offence, but minor from the point of view of the general issue of this case. We have been discussing details as to whether this person did that, or that person did this, and now we want to get the case back into proper perspective. That is why I want to bring back to your minds the evidence with regard to the horrors of the gas chamber.

I would again submit that every person who took part in those parades, knowing what they were for, took part in a deliberately carefully organised murder. Not the murder of one person, but an attempt to murder an entire race - an attempt to murder the whole Jewish Race, an attempt to destroy the strength of Poland, one of our allies, and an attempt to destroy by fear many other people. That martyrdom of the Jews insofar as it concerns Allied Nationals, insofar as it was employed on these persons who came into the power of the Germans, and into the power of the personnel at Auschwitz, was a war crime which has never been equalled. That is the submission of the prosecution.

It has been suggested in another context by Kramer that the persons who were in these camps were the dregs of the ghettos. That is manifestly untrue on the evidence. You have heard how whole towns were taken. Remember in particular part of that film of Auschwitz where you saw three Polish men in prison clothes standing by a gallows. All three of them were professors of different universities. The last impression that should be given is that this was the cleansing of a nation. That is complete nonsense. The people who were going through this gas chamber were going through without regard to class or ability; without regard to anything at all except for the fact of their religion, the fact of their race, or the fact that they could no longer work as slaves. That is why they went through the gas chamber.

I will leave the question of gas chamber selections saying only this, that if you want to put this case back into perspective, read the evidence of Dr. Bendel, an educated man, a doctor.

What was the position in Auschwitz apart from the gas chamber? You have heard witness after witness speak about the beatings there; also of the practice of setting dogs on to people. You have heard witness after witness speak of the general treatment and conditions at Auschwitz. Again I will quote Starotska, because I think the case is much stronger when quoting a defence witness than a prosecution witness who, it is alleged, may be suspect.

When they arrived at Berkenau there was no drainage, no sanitation, light, ~~water~~, or anything. That is what they found there when they went to Berkenau, and that is not when it was being broken-down as was suggested. You saw on the film the type of place where they were sleeping - on shelves. That is the only way to describe them. To talk about beds is ridiculous. You heard the testimony of witness after witness as to what happened to them when they first got there. What was their introduction to Auschwitz? If they were Jewish, they went on a selection. If they were not Jewish they did not, but the subsequent treatment was precisely the same. They went first of all to the bath-house where, as witness after witness told you, they were beaten. They were handed prison clothes. Everything of their own was stolen from them, and I say stolen from them because these were people who were entitled to their property. These were not people who had been convicted by a court or anything like that. Their possessions were deliberately stolen from them. Even the hair was shorn from their heads and put into sacks to make felt. They were tattooed (and I do not complain about that) but from then onwards beatings in that camp were regular, and in that connection I want to rely more upon the witnesses for the defence than upon the witnesses for the prosecution. I do that because defending counsel, quite rightly, have made criticisms of the witnesses for the prosecution, and I therefore want to rely as much as I can upon their own evidence which is not suspect-evidence produced by them.

I will take first of all Lothe. She said that people were beaten by all the aufseherin and, if necessary, capos as well. Lobauer said when she was working on the outside kommandos if she and other members of the working party relaxed for a moment or two, the aufseherin came and beat her. I asked her if that was a regular practice and her reply was very illuminating. She said: "Naturally; that is how concentration camps are carried on". It was part of the system to make capos beat prisoners. They were forced to do it. Even Gura said that he had seen both blockaltesters and SS beating at Auschwitz, and when I suggested to him (the court will remember he was talking about the question of interfering if people did not do as they were told) that when an SS man shouted at a prisoner the latter immediately stopped, he replied "Yes, yes, yes" very quickly. He repeated himself three times. In other words, it never crossed the minds of any of these people to hesitate. "I will perhaps remember when I suggested to one of those girls that she might have been hit back the astonishment she displayed. It could not be so. She was a prisoner.

The whole place, in my submission, was ruled by force and ill-treatment. Look at it logically. If a person knows that he will ultimately die without being released from his prison, if he knows his only escape can be death in the gas chamber and until that time hours of heavy work, then is not serious ill treatment necessary as the only way of compelling him to go on? He must be made to be frightened of something worse than death. I am not talking for a moment (although, of course, this in itself would be a breach of the Geneva Convention) about the organised punishment which Lothe and Lobauer told us about; but Starotska told us what happened to somebody who complained.

She said: "I complained about the way one of the SS men was not giving food to his gang". What happened? The SS man promptly walks in and gives her thirty-five strokes for complaining about it. Is not it perfectly obvious how it was carried on? You have this mass of evidence, but when you ask any of these accused they all say precisely the same thing, that beating was the natural thing at concentration camps. You could not avoid it. Mr. le Druillenc, whom, I think, everyone accepts as being an honest witness, said that blows were the language of the concentration camp.

Some attempt I think has been made to suggest that these blows were not serious. The number of times that the words: "I boxed her ears" or "I slapped her face" have appeared, and the number of times that the witnesses in the witness box in reply to a question with regard to beating, either from the defence or the prosecution, have said: "Mit der Hand" have made them catch phrases. The word "beat" automatically called for the response: "With the hand". But what are the facts? Is not it quite obvious to you from the evidence of the witnesses, both for the prosecution and for the defence, that at Auschwitz, just as in every other concentration camp, almost all the blockfuhrers carried sticks and other weapons?

To quote Starotska once again, she says: "Some of the aufseherin had sticks; some had whips, and some had dogs. Prisoners in Auschwitz were beaten on every occasion. They had to work very hard. Accommodation was very bad, and they had lice and other diseases, and dogs were set on them".

Do you also remember that piece of evidence given by Kopper with regard to the people whose job it was to drag corpses to the mortuary? I asked her about it and she said there were thirty women whose sole employment was the dragging of corpses to the mortuary. Does not that give about as clear a picture of what was going on as anything?

Even Dr. Klein himself tells us about the beatings. He said that he had people in hospital as a result of beatings. The whole treatment of prisoners both in the camp and in the outside kommandos was such that a "Musolmann" (that phrase which had been coined by prisoners) was a regular thing. It was not something uncommon. Starotska and Schlomoivich both said it was a common sight; and you will remember Starotska told us about how regularly they used to come back from the factories they had been sent to and sometimes never even came into the camp, but went straight to the gas chamber, and a new draft was sent to the factory to replace them. I mention that because it is of some interest in what was happening in the factories.

Perhaps one of the simplest pictures is that given by Grese herself who did not hesitate to carry a whip or to use it. Some attempt was made to suggest that of course this was only a paper toy, but she would not have it. She said no it was meant to hurt and it did hurt when she used it. She had a stick too, and she has told you how when she found things disappearing from the kitchen (this was at Auschwitz, not Belson) she told the aufseherin to wait for them and if she found them to give them a good thrashing.

You have heard about the appol. You have heard how, according to a witness, they lasted four hours. When Grese gave evidence she said yes, they did last that time, but the second day she changed it to three hours. When she was arrested she said four hours, but she also said that only happened once in her original evidence. She told the court how she gave these aufseherin orders to go on counting, counting, and counting, until everybody was there. Well, as anybody who has ever taken a roll-call will realise, it is absolutely unnecessary to do that. Quite obviously, having counted once if there were five short, well, there were five short, and they should go and look for them and not keep the remaining people standing there in the cold of winter, especially the winter in that part of Poland which even Kramer objected to going to. Is it to be wondered at that when people were kept for four hours on a winter's morning like that, not having had a proper breakfast, they fell and died? I am not suggesting that the roll-call was ill treatment, but carried on as these appels were they were ill-treatment. Also Grese has never made any bones about the fact that she made people kneel as she thought fit. If people moved about at all she made them kneel. In fact, there are few allegations which have been made against Grese which she did not frankly admit..

That, I think, is a reasonably fair picture of life at Auschwitz. On arrival you were beaten. You were sent to a block which was overcrowded. You were fed on food which would barely sustain existence. You were overworked and often as you did work you were severely beaten. You remember Kopper's piece of evidence about the ten women who were trying to push a waggon full of sand and who were all beaten, except Kopper herself, and she admitted freely why she was not. You will also remember the picture of that wretched Vistula kommando which went out seven to eight kilometres in December, along a path or filthy road, up a steep hill, and there made to work (all these were women, of course,) digging a trench; and it was suggested that they need not have got their feet wet as they could have stood on the dry bits while they dug the trench. The prosecution say that they were also chased up the hill by men, but have you any doubt that that is true?

Most aufseherin came from Ravensbruck, and that is why other camps have been brought into this case, because it was quite obvious from the very outset of the case that it could and would be suggested that Belsen was an exception, the conditions there being due to a breakdown of transport and so on. Therefore, it was necessary to show that these conditions prevailed in all concentration camps. Have not you got precisely the same picture at Ravensbruck and Dora and the others? It is not a picture of people being slapped on the face; not a picture of people having their ears boxed, but of people receiving severe thrashings whenever they were caught doing anything wrong, with the definite intention of making an example of them. Pictures of collective punishment where a whole block was made to go without food because one of them had committed an offence. Pictures of captos being dismissed from their position because they were not ill treating prisoners sufficiently. Is not that your general picture of Auschwitz?

I am dwelling on Auschwitz for this reason. It is, as I have said already, the obvious line of defence that Belsen was an exception. However, I want now to turn from the general position at Auschwitz to the general position at Belsen.

It is plain, and the prosecution would not seek to deny it, that towards the end at Belsen there were obvious transport difficulties, and there must have been obvious difficulties in organisation and obvious difficulties in feeding; but what the prosecution say is that no attempt whatever was made to cope with those difficulties; that the situation at Belsen was the result of a deliberate and, to an extent, grossest conceivable neglect.

We have heard that at Auschwitz anybody unfit to work was sent to the gas chamber. Do you really believe there was ever any intention whatsoever of setting up a convalescent depot in December of 1944 for the sick people from the North West when these sick people were being gassed at Auschwitz? Is not the truth of the matter too obvious, that in December of 1944 it was becoming very apparent that Auschwitz was going to be untenable, and the first transports already were beginning to go away to Belsen? They were not sick people. Guterman and Synjer - I do not mind whether they arrived in December or November - said that the transports were leaving Auschwitz for Belsen about the same time, very shortly after Kramer arrived. Is not it quite obvious that he was sent as forerunner of the new Auschwitz removed from the threat of the Russian advance?

What did Dr. Klein say about it? He said there was some talk of the camp being some kind of exchange camp for prisoners - "but later on it did not give me that impression at all. It was not a camp for sick people. It was a death camp; a torture camp". That is Dr. Klein, the medical officer of the camp.

Was the slightest attempt ever made to make that into a camp for sick people? It is perfectly obvious, in my submission, that it was not. The camp, I would suggest, was to take the place of Auschwitz.

I will not ask the court to say that there was any evidence on which they can seriously rely that gas chambers were already in force of construction. There was a suggestion of it. There was the evidence of two witnesses, (I think one of them said he had been told by somebody else) to the effect that they were constructing a gas chamber. One spoke of bunkers which Kramer said were going to be underground huts, although that seems to be an extraordinary business - because they were short of huts they were going to build dugouts. However, be that as it may, I would not ask the court to say that there is evidence on which they can properly find that any actual gas chamber was in the course of construction. But do you doubt that there would have been? Remember this. The gas chambers at Auschwitz were being demolished. They were not being blown up or anything like that, apart from the one blown up in the riot. They were being taken down stone by stone. Where were they going? Was not the obvious place to take them where all the sick people were being collected together? Nobody would suggest that the Nazi mind is not logical. It is quite inconsistent, in my submission, that in the one place they should collect the sick people and kill them, and in the other, where there were precisely the same people, the same Jews and Poles, etc., they should care for them in a convalescent camp. I would suggest that that is a quite untrue statement of what the camp was intended to be.

There was never the slightest attempt to improve conditions there. There was never the slightest attempt to bring medical supplies. There was never the slightest attempt to bring beds or anything else that one would naturally require to build up a convalescent camp. There was not the slightest attempt to provide any diet, and there was not the slightest attempt made in that camp to make any provision for the sick people when they arrived by the staff who were there.

You have the picture of Belzen; of more and more people coming in and no serious attempt being made to organise it. You have these girls coming in, one transport after another, and being put into the kitchens. They say: "We had a day doing nothing. There was nothing to do. We were given a job in the kitchen, but we really had nothing to do for a couple of days". Grese was going round arranging the decorations outside the kitchen with little white stones whilst thousands of people were dying around her. Can you imagine that situation with any normal and sane people in charge of that camp, quite apart from any complaints that they may or may not have sent to Berlin? What would they be doing themselves? Surely they would be working night and day to get the place straight and help these people by organising it? What do you find? I submit the attitude is summed up in Kramer's words: "Let them die. Why do you care". Was not that a continuation of the general situation in Auschwitz?

What was the attitude of the aufseherin, the block-altesters and the capos? Supposing these were honest people, and that this was a camp for sick people. What would you expect their attitude to be? Do not you think it would be an attitude of concern for these sick and dying people? Do not you think they would be trying to help them sympathetically instead of boxing their ears or slapping their faces?

Is not it quite obvious what was the attitude of a guard in a concentration camp? If you teach people to gas four million victims you cannot expect them thereafter to be very gentle with lives in other ways. If you have been used to sending a transport of one thousand human beings an hour to a gas chamber, shooting an odd person cannot be a very serious matter. Nor can a beating. If you have been used to

guarding a kommando all day and coming back at night with one or two dead bodies being carried behind, people who have died through exhaustion or beating, you cannot expect to be very gentle when you get back.

Let me again submit to you what the position was in Belson in regard to these beatings. It has been rather suggested that all the people did was to chase an internee, rather like a farmer round the orchard, with a stick. If an internee came to the kitchen you ran out, gave him a smack, and went back in again. That is not the case. You may well think that when a crowd gathered round the kitchen out came the aufseherin and many of the prisoners ran away when they saw this woman coming with a stick. You can well imagine those prisoners who could stumble would stumble away, but those who could not were left there and they were the ones who received the beatings as an example to the others. Is not that consistent with what you have heard in each concentration camp?

I have on more than one occasion dwelt on the conditions in other concentration camps. You will remember that Schlomoivicz was sent to Gross Resen in a transport of, I think, 500; and at the end of about eighteen months there were seven still alive, and that was not due to any gas chamber, but was caused through exhaustion, beating, and ill treatment.

That was the picture in a concentration camp, and that was the picture in Belson. You will find (I am still talking of the general picture before going into the individual cases) that odd people have come here to say that odd aufseherin or SS men treated them well. I would not ask the court to doubt that. Even the worst of people have their good spots, and you may well think that some of these women had their own small favourite. You have had the picture of Ehlert and Ide Friedman - and here, incidentally, you will notice that she was not alleged to have been killed, but to have been ill treated - You have the picture that on the very day the British arrived, with thousands dying of starvation, Ehlert giving Friedman a piece of sausage and an egg for breakfast because she said she was hungry. Well, you may or may not believe that. It sounds fantastic, but it is not inconsistent with the general situation. Again, whilst she was having her fortune told by cards people were starving around her and dying, and she did nothing to help them. I ask you to say that the whole picture is the same.

A great deal of criticism has been levelled at some of the affidavits on the ground that people speak only of one isolated incident. Equally, if they speak of more than one it has been criticised on the ground that it is too general. In fact, I think you will find if you look at them that a general allegation is followed by a specific allegation. Major Champion has explained to the court how that came about. It was Col. Genn's practice in his team to ask for something definite to support the general allegation, and that is why you will find someone saying what the SS did and then going on: "I remember a day when I was beaten" or "On such and such a day, so and so beat someone", giving the definite allegation. I do ask the court to say where they are satisfied that one of these accused has taken part in this system, that they will take all those various beatings that they found went on in Belson, and make for themselves the composite picture of what was happening, and then try and see how this particular man's evidence fits into the scheme of things.

Let me deal with the kitchens. If you take kitchen No. 1 and take the persons who admittedly have been there, you have Pichin, a man called Joseph; you have Ilse Forster, Hahnol, and you have Lisic-witz; and I think Fiest was in the peeling department for a few days. When you look at the evidence against any one of these people, remember

U11 (50)

that they were in the same kitchen together, you have Eichin saying, for instance: "There was no beating in my kitchen", but then look at the evidence against Ilse Forster, Hahnol, and Lisiewitz, and see what they say about it. Similarly, when you take kitchen No.2 and you have Hoess, who is not before the court, and Wossol who is also not before the court, Hempel, Haschke, Sauer and Frieda Walter for a day or two only, and you are completing the picture in that cookhouse as to what ~~was~~ really happening, do not look at each person individually. You must, of course, look at them individually later to see how they fit in, but get first a general picture of what happened in that kitchen. The same thing applies to kitchen No.3, where you have Ida Forster saying: "Of course, I never went out of the kitchen at all. I never saw any of these things. My duty was to keep my nose over the boiler" You must, of course, think of what was going on around her in that kitchen, and if you accept the evidence as to what was going on around her, then see how she fits into the picture and see if you accept the evidence that relates to her.

The remaining cookhouse No.4 has always been rather a mystery cookhouse, because it was outside the camp. The SS kitchen is another semi-mystery kitchen. All we know of that is that Mathes cooked there for a time, according to his own statement, and then he left and went elsewhere. You must, as I say, consider each kitchen as a whole, and see what went on.

You have to consider also in looking at the picture of Belson what attempt was made with regard to feeding. There you have a curious position, because it is difficult to understand quite what the case is which is presented on behalf of Kramer. At one time it appeared that he was really saying: "Owing to the breakdown in supplies I did not get enough food for these people. I could not help it", and Muller was called presumably to support that. Muller says, however, "Oh no; that is not true. These prisoners got all they were entitled to, and apart from bread, they got everything they were entitled to", and that became the case. Well, you heard what the people in kitchens thought about that. You heard what the people who were in the blocks thought about it. Can you possibly believe that these people got all they were entitled to? Is not it quite obvious that these people were being starved, and if they were not being deliberately starved, at least there was not the slightest care as to whether they were starved or not. There was no attempt made to organise the feeding of them, no attempt made to organise the feeding of the unfortunate ones who were weak, and, as we have heard from some of the black staff and some of the accused and their witnesses, the food went to the strong. You had this extraordinary position that in this camp which is alleged to have been a camp for the sick, it was the strong who were given the extra rations. If Zoddol is to be believed, he had no difficulty at all. If he was short of rations he went along, asked for more, and got them.

You have had one accused after another saying: "I looked after my party. I got them double rations. Can you really accept that? If you do accept it, where does it lead you? It simply leads you to deliberate starvation if that story is really true that double rations were being given to the healthiest and single rations to the weakest.

Remember the state of the camp itself. I do not want to waste time quoting long extracts from the evidence, but just cast your mind back to the very first witness in this case, Brigadier Glyn Hughes and his description of the camp.

He said the conditions in this camp were indescribable. No description nor photographs could really bring home the horrors that were to be seen outside the huts, or the frightful scenes inside which were very much worse. "There were piles of corpses lying all over the camp of varying sizes, some outside the wire and some in between the huts. The compounds themselves had bodies lying about in them. The gutters were full and within the huts there were uncountable numbers of bodies, some even in the same bunks as the living". Colonel Johnston in his affidavit said: "The prisoners were a dense mass of emaciated apathetic scarecrows huddled together in wooden huts". Captain Sington in his evidence said: "I should say when we entered, when the SS were still in control, there was an atmosphere of terror about the place, and the people were behaving like terrified animals". You have photographs bound up in the affidavits and, of course, you also have the originals which have been put in. Those give some idea of what Brigadier Glyn Hughes says.

You have also seen the film. It was not a good film because the greater part of it which would have shown you the general condition of the camp was taken in bad weather, and this is a difficult sized screen; but you saw the general state of the camp from the film. In spite of all this, you have people coming into the witness box and saying that they never noticed bodies; that they never noticed the smell; saying that the camp was clean and tidy. How can you place any reliance on the words of these people? You heard described from the witnesses the state of sanitation, quite apart from the numbers of corpses lying about. There were 13,000 corpses lying unburied when the British arrived at the camp, quite apart from the number which had been buried in those last three days. You have Brigadier Glyn Hughes' description of the sanitation. In fact, there was none. "Conditions were indescribable because most of the internees were suffering from some form of gastro-enteritis and they were too weak to leave the hut. The lavatories in the huts had long been out of use.....Those who were strong enough could get into the compound but others performed their natural actions from where they were. The compounds were absolutely one mass of human excreta; in the huts themselves the floors were covered and the people in the top bunks who could not get out just poured it on to the bunks below". Brigadier Glyn Hughes was then asked to give a description of one hut and he chose block 208: "There were dead women lying in the passage which was so full that no woman could lay out straight; the main room on the left of the passage was one mass of bodies. You could not get another one into it. The conditions of the inmates of the hut were those of extreme emaciation; women dying frequently". Those were the conditions which they found, yet, as I say, you have people who say: "Well, we know people were bad, but we never smelt anything, we never saw any bodies, and we never saw anybody beaten". If you honestly believe that those conditions were caused by neglect on the part of the staff, and if you believe that these persons in the dock (you must, of course, be satisfied as to each one of them) were on that staff and took part in this general neglect, and that they did not care, then, in my submission, they are plainly guilty.

If, of course, you are satisfied that this was due to a breakdown in organisation, then a different situation arises. But what is really the evidence you have got? You fall back on Muller who produced some figures, the reliability of which is a matter for the court. It is not for me to express any opinion, but he produced figures as to what he says the prisoners were entitled to in regard to food. These figures were apparently created from a mixture of indents, receipts, and various other things, which shows that the internees got what they were entitled to. That is his opinion. Kramer says that he sent Muller to Celle and Hanover imploring the depots to do something about it, and put the responsibility on them. Muller, on the other hand, says he does not know where the depots are, and did not go there; did not take that message and did not get that reply.

Dr. Klein's evidence with regard to that is very interesting. He says that he went to the camp for ten days in January as a locum, and he was told that he would not be expected to do much, that his duties would be very light. That is his own evidence. He was the only doctor in that camp who should have been organising the whole thing. What was his picture when he came back? "In the first two days Dr. Horstmann took me round the camp, showed me everything, and I gained the impression that this was a lost post. It was working a very ungrateful work -- it was a thankless job". Then there was the question: "What was the position with regard to medical supplies, to which he replied: "About three days before the British troops entered the camp and when I took over I was surprised about the comparatively huge amount of supplies which were there". It is only when he knows there is a truce and that things have ended that medical supplies are handed out for the first time. Dr. Klein accepts the fact that he was the SS camp doctor, what would any normal decent doctor be doing in that camp in the state it was in? They would have been working night and day. When those two other doctors arrived from Dora and had a talk with Dr. Klein he never even mentioned it. If there had been the slightest care shown for those internees would not those two doctors have been roped in at once to help and get things going? There was no attempt to get medical supplies or anything. There were no blankets, no water, no sanitation because at that time nobody thought of these necessary things. That is the evidence of Dr. Klein and not one of my witnesses. Then you get his words; "It was not a camp for sick people it was a death camp". Is not that a true picture of Belsen? Nobody carrying, nobody trying, nobody worrying, just carrying on as though nobody was dying? They were even sending out kommandos to work in the commandant's garden. The arbeitsdienstfuhrerin was wandering around picking flowers, and another was spending her time putting ornamental rockeries around the kitchen where the corpses were lying. The other girls were doing nothing. There was a complete lack of care. Nobody cared in the slightest what happened to those internees.

What happened on the 12th? What did they think was going to happen to the poor internees when the whole lot of aufseherin went to Neuengamme? All the aufseherin and the doctors disappeared together to Neuengamme leaving the prisoners to their fate. Eventually they came back again, but nobody apparently cared what happened to the prisoners. Is not that typical of the attitude which was being displayed by all these accused? Is not it also because from the very word go they have joined in and accepted this theory that the prisoners are cattle, and that they are not to be treated as human beings? Is not it because they have accepted the theory that prisoners lives are worthless, and that it does not matter if they killed them when taking a kommando?

They expected to come back with a corpse or two in the back after the day's work. They expected to see bodies lying around. They employed 30 people to carry away the dead bodies and accepted that. That is the attitude which was joined and adopted by all those people when they arrived, because it was the attitude they had before they came. They came from other concentrations camps where precisely the same thing was happening. The difference at Belsen was that there was the last stand. As the Allied Forces came and had gradually taken one after another, you found them all pouring in to the place which housed not the dregs of the ghettos of Europe, but the dregs of the SS. Here were the guards from the other camps, scuttling away in front of the Russians, scuttling away in front of the British, securing themselves in Belsen. Those were the people who took themselves to Belsen, and those were the people who were responsible for the internees. It is some of those people, in my submission, that you have here in the dock to-day.

(At 12.55 hours the Court adjourns)

(At 14.30 the Court is re-opened)

(The accused are again brought before the Court)

COLONEL BACKHOUSE: This morning I dealt with the legal position as the Prosecution put it; I dealt with the general position at Auschwitz and at Belsen, and the way in which I put the case against the accused as a conspiracy. Now I want to turn to the reasons why I say that each of those accused took part in this offence.

Taking Kramer first, I do not propose to spend very much time on him. Either the Court have accepted the general condition or they have not, and if the general situation is accepted, in my submission Kramer is so obviously right in it, both at Auschwitz and Belsen, that it is unnecessary to spend very much more time on it.

Kramer, on his own statement, joined the Nazi Party in 1931, and the S.S. in 1932, and from 1934, almost about the time when the concentration camp service started, he has been in that concentration camp service. He served at Dachau, Sachsenhausen, Mauthausen, Auschwitz, Dachau again, Natzweiler, back to Berkenau, and then Belsen, and from 1942 onwards he has been the commandant of a concentration camp.

He served his apprenticeship in the gassing of innocent people, as he has explained himself, at Natzweiler, where he constructed the gas chamber; where he took the people in, and where he, quite literally, gassed them himself.

He was transferred from there to Berkenau at the same time with Hoess. He came back again to camp Auschwitz and Mrs. Kramer, you will remember, told us of a conversation that she had with Hoess, and in fact the Prosecution asks you to say that Hoess came to Auschwitz to manage the gassings of the new transports that were coming in, when the big rush of new transports came in May of 1944.

The Prosecution invite you to say that Kramer was sent there for precisely the same purpose. Kramer, having served his apprenticeship at Natzweiler, being a person who could be relied upon to do the dirty work that he was required to do, and to do it with the utmost secrecy so that it should not be known even to the German public, was chosen as the commandant of Berkenau. Berkenau was the camp where all five of the gas chambers were situated, and where all the gassings used to take place, and can you have any real doubt that he was chosen for that particular position?

It has been said that he had written orders saying that the gas chamber was not his concern. He is the only person who says so; there is no evidence whatsoever of that apart from his own statement, and can you possibly accept that statement? Can you possibly accept that this man is brought from Natzweiler where the gas chambers have been established by him and, on arriving at Berkenau, he is given command of the camp where all the gas chambers are, and he is told that he shall have something in writing to say that he is not in any way responsible for that?

So far as his conduct in Belsen and his conduct in Berkenau is concerned, again everything depends on the general picture which you formed of Auschwitz and Berkenau. He says himself that he was regularly in the camp; that he spent the day in the camp; that he is always in the camp until the appel was finished, and he admits freely that he watched and saw the selections in the camp, but like everybody else he says he took no personal part in it, though other people, including Starostka, say that he was in fact present regularly.

Of course, you also have a number of witnesses who say that he took an active part in the selections, or rather in the selection process, in that he loaded people into the trucks, beat them when they would not get into the trucks, and on the gassing selections was there pointing the way.

The witness on whom I rely most is Dr. Birko, although, of course there are other witnesses, including Stein and Hammermasch who all said the same thing. But Dr. Birko is, in my submission to the Court, a particularly reliable witness. She is a professional woman who, according to Brigadier Glyn-Hughes, did magnificent work in Belsen and, we are told, is still there at the hospital, and her evidence I would ask you to accept.

Can you believe that if Kramer is there present in a camp where he is himself responsible for the security, as he says, that he would not take an active part if he saw these people refusing to get into the trucks, and so on, when you have the position that he himself has taken part in these gasings. It is not as though he is a man who is squeamish because he has done it already, as he has told us, before he ever went there, and I ask the Court to accept that he was plainly taking an active part in the taking of these people to the gas chamber.

You may remember his own story of how he interfered when he found confusion on an appeal and took it himself. Do you really believe he did not interfere in a similar way when he found confusion in his camp at a selection parade?

So far as beating at Auschwitz is concerned, do you really believe that he did not know that was going on? Do you really believe it was possible for him to be in and about the camp, followed by his chauffeur, who was an experienced member of the Sonderkommand beforehand, and that he did not know what was happening? You have the evidence of a number of witnesses who speak of actual beatings by Kramer himself. It is entirely a matter for the Court whether they believe it or not, but might I suggest that those witnesses were quite unshaken about it.

A great point has been made of Glinowieski getting the wrong dates. I have said all I have to say about dates, and it is quite obvious that nobody has the right dates in this case; you may remember that he himself got the wrong dates. You have the story of him beating a woman by the gate with his stick, a woman whose shoe fell off; it is an isolated instance, but my friend Major Munro asked Szafran to give a particular instance when she had seen him beating, and he immediately got it with a wealth of detail.

You heard Glinowieski's evidence. It is entirely a matter for you, but I submit that man was obviously telling the truth. He was the man who had great difficulty in talking of his brother's death, and when he gave the account of his own 25 strokes because he had Czech boots.

Now you have Kramer in the camp at Belsen. I do not propose to deal with that at any length, because you have heard the general story of the Prosecution and the Defence. It is for you to decide which you accept, but can you have any doubt at all that Kramer was right in it at Belsen? You heard what Ehlert says, about Kramer, that he told her "Let them die, why should you care". You have heard what Klein said about it: "I am not taking orders from you". You heard the evidence of Kramer's attitude when Brigadier Glyn-Hughes and Colonel Johnstone and others arrived, absolutely callous to the whole thing.

You have the individual instances of his beating in Belsen. You remember the story of Sunschoi n about the whole block being made to kneel in the rain and deprived of food for 24 hours by Kramer because some Russian girls had been stealing bread. You have that story told by both Dr. Birko and by Hammermasch when the Russians were building the shelters, of beating the Russian man there and beating him until he was unconscious and then kicking him. You have the story of the beating of the Russian girl who escaped. That story was told by Ehlert, Volkenrath and some of the Prosecution witnesses. Take that on Ehlert's original statement, because I am going to ask the Court to accept Ehlert's original statement in so far as it relates to these matters.

Ehlert tried to water that statement down afterwards, you may remember. On Saturday she was invited to make comments on her statement by her own counsel, and she did, and there were certain passages to which she took exception. By Monday she had quite a different set of things she wanted to withdraw, very much more than on Saturday. Is not the real truth of the matter that when Ehlert was asked or given the opportunity of making a statement soon after the liberation, while she was still at Belsen, she told the truth about quite a lot of things. By the time she got here - and it has been quite a long time - and talked with the other prisoners, a great many of those things were withdrawn.

Have you any real doubt at all that the account of beating that Russian girl is quite true? There was this little group waiting for the girl to be brought back, and then Kramer begins to beat her, shake her, and kicks her until she eventually confesses the names of her two confederates. He then sends for them and they are each of them thrashed, each of them given five strokes.

Ehlert gives you a full account of the matter and I ask the Court to accept that account. That is the way in which Kramer was running his camp.

You have the evidence of Sompolinski, the man who had a bullet through his hand, and he showed the Court the wound. It is a matter for the Court whether they accept it or not, but Sompolinski said Kramer was actually shooting in that camp towards the end.

These are the main points that I want to put before you. There are others, but I have merely selected a few to give you what is, in the Prosecution's submission, is Kramer's attitude throughout, that he is in this right up to the neck. He knew exactly what was happening; he accepted the responsibility of beatings; he accepted the responsibility of killing people there.

He went to Auschwitz and again he was concerned in the killing of people there, both Auschwitz and Belsen. We have not evidence as to the conditions at Natzweiler, but we have got the long course of conduct throughout. He has been in one concentration camp after another and, in my submission, he was deliberately chosen for Berkenau. The whole of the evidence points that way. He was again quite deliberately chosen for Belsen, when Belsen was going to accept the same people as were being sent to Auschwitz.

There is just one point I want to make, and that is as to how far you should accept his word on oath at all. It is a matter for the Court upon which they should make up their own minds. You have heard him in the witness box and you have heard the evidence against him.

You may remember that in the first statement he made on oath he said: "I have heard the allegations of former prisoners at Auschwitz referring to a gas chamber; the mass executions and whippings; the cruelty of the guards, and that all this took place either in my presence or with my knowledge. All I can say to all this is that it is untrue from beginning to end".

Now that was a statement made on oath. I do not very much mind whether the oath was administered to him before he made the statement or whether he swore to the truth of it afterwards. His only answer to that was: "Well, I have given my word of honour that I would not mention these things, and I felt myself still bound by that"

There are one or two other things in that statement which I would suggest shows the utter hypocrisy of the man. "If a case could have arisen in which a woman would have committed one of the crimes for which a man would have been beaten, I would have pointed out to the women

guards that corporal punishment could not be administered to women".

You have heard the evidence of Lobauer, the accused, quite apart from the evidence given by witnesses for the Prosecution, and have you any doubt that corporal punishment was given to women, both organised and unorganised.

Kramer goes on: "Even if corporal punishment for women would have been allowed I would have never put it into practice - such a thing is inconceivable to me". That is his statement. Can you really accept a word of what he says? Of course he knew those things were happening, because he says himself: "I thought and I asked myself, 'Is it really right about these persons who go to the gas chamber, and whether that person who signed for the first time these orders will be able to answer for it? - I do not know'".

The only other point I wish to take on Kramer is with regard to the letter which he is alleged to have written to Gluecks. I do not know what view the Court have formed of that letter, and there are only a few points I want to make with regard to it. In the first place, are you satisfied that the letter was ever written and sent at the time? If it was, how did the top copy - because Major Winwood when he was referring to it said it was the top copy - come to be still in Kramer's possession, or rather, Mrs. Kramer's possession? How is it that the top copy was only initialled? That ought to have been in the file signed by Kramer. How is it that when he was asked to produce any documents, he said that all documents had disappeared, but that one mysteriously appears? He says: "I kept that at home because it was a private document", but you have only to look at it to see that it is not. It is a report from a camp commandant and it is not sent at all. I would therefore suggest that this is not a genuine document at all.

Even supposing this was a genuine document, there is one point which stands out in it, and that is the fact that Kramer accepts 35,000 as being a suitable and proper number of internees in that camp.

Brigadier Glyn-Hughes said: "There were only 41,000 when we went in, and there were ten people where there should have been one," and everyone has heard of the over-crowding and the disgraceful conditions. There were, of course, exactly the same conditions in camp C which Grese has told us about, when there was no question of the other camps pouring in or anything of that kind. It is common and it was common to both the camps that Kramer commanded.

Now I would like to turn to Dr. Klein. Again I have no intention of talking long about Dr. Klein, because with one very slight exception all that the Court needs to do is to look at Klein's own evidence. He has made no secret whatsoever of the fact that he attended these selections, that he selected people on them, and that he knew that it was wrong and that he knew that it was murder. He agreed that those who were not fit to work were simply destroyed. I put the actual words to him: Did he realise it was murder, and he said Yes, he did.

What did Klein do? Everybody takes the view, "What can I do?" - the murders would still take place", but he is not a child, he is a man, and people need not just follow like sheep and say: "It is nothing to do with me; I only murdered him because somebody told me to".

When he gets to Belson, what is the position there? He says frankly that when he got there in January his duties were, so he was told, going to be light, just going to the camp every day but not very much was expected.

He says when Dr. Horstmann showed him round he then realised that it was murder. The only time he really ever did anything in that camp was when he knew the British were coming in, and then he buckled to and did

something. He called for the first time a meeting of internee doctors, and then for the first time he distributed extra food, extra medical comforts which were available, and extra medical supplies. For the first time he suggested to Kramer that something should be done about the water because people were dying of thirst, and that something should be done about the bodies, but that is when the truce came and not before.

The evidence, in my submission, plainly shows that he was content to neglect that camp completely, and when other doctors like Schmidt and Kurzke became available, not only did he not ask for help, he did not mention the situation, and for a medical man that was the grossest criminal neglect. He made no attempt to do anything whether under Dr. Horstmann or not. Dr. Horstmann, unfortunately, is not here, but the fact that Dr. Horstmann was there is no excuse for Dr. Klein.

The next accused is Peter Weingartner. Now he has been very frank. Weingartner agrees he went to Auschwitz as long ago as 1942. He was a blockfuhrer in the women's compound and he eventually commanded the kommando Vistula. Then he came to Belsen as one of the earlier people from Auschwitz, where again he became a blockfuhrer.

There has been quite a lot of evidence about him. The principal witness, you will remember, was Glinowieski, the man whose brother was said to have been beaten to death. You heard him in the witness box; he is the man who broke down, and you heard the difficulty I had in persuading him to speak of his brother's death, how he went round and round it and then just burst into tears and broke down.

The point has been made that he did not see Weingartner do the beating. Do you think that is a good point? What he does say is that he saw Weingartner catch his brother and take him into a room. He saw him come out of the room and immediately he came out he told him exactly what had happened inside and he saw the results. He said he took his brother to the hospital and his brother died. His brother told him that he was bent over a chair, a knee applied to his neck and he was given 75 strokes from Weingartner. It may or may not be 75, but the fact of the matter was that that boy was beaten until he died, and have you any doubt at all that that story is true?

With regard to the Vistula kommando, Weingartner was quite frank about that. It was obviously an extremely unpleasant kommando. What does Sunschein say about it? I suggest that she was one of the best of the witnesses to come here and one of those on whom you can rely implicitly, and she was a very good type of girl who gave her evidence well. It is a matter entirely for you as to what view you formed, but I would suggest she was quite unshaken by any cross-examination.

She says she was actually removed from her post by Weingartner because she was not prepared to beat and ill-treat the other prisoners. She says Weingartner beat them with a stick, and that Weingartner, and guards under Weingartner, set dogs on these women going up the hill. Have you any doubt that that happened? Is it not entirely consistent with what you have heard about the way these camps were run? It was one of the Defence witnesses who said that blockaufseherin at Ravensbruck had a dog and that there was not so much beating as setting dogs on people.

Weingartner agrees there were dogs with his party when they came to this hill. Have you any doubt that these women were run up the hill with dogs behind them? You heard the description of it from Sunschein and I ask the Court to accept it. She said it was quite a good kommando until Weingartner came to it, and after that many people were taken to hospital daily. She says he deprive people of bread, and, of course, bread was an extra ration for the heavy work they were doing. It is a matter for you to say whether you think that is consistent with his other line of conduct.

He admits that the women in that kommando were working from 7.30 in the morning to 1500 hours in the afternoon; that they were marched out these seven or eight kilometres and that they had to march back in the evening seven or eight kilometres. All they had was bread and coffee before they went out and at lunch time they saved up their extra rations to eat the n. If you believe that those extra rations were stopped, you may well think that that in itself was the greatest conceivable ill-treatment under the circumstance.

Now I want to ask you whether you think he can be believed. Nobody suggests - or at least there has been no witness to suggest it - that Weingartner ever attended or took part in a selection. Although he was blockfuhrer of A lager he says he never even saw a selection and does not know anything about it. Can you really believe that? He was blockfuhrer at the gate of lager A just exactly where the transports were coming along the side of the lager. Can you honestly believe that that man, in the whole period he was there, never even saw a selection and knew nothing about it?

I would suggest to you that that is quite obviously untrue, and he is obviously a man who cannot be believed if he is prepared to try and exculpate himself in that way.

Consider the situation at Belsen. He finds himself blockfuhrer in the women's compound again, and there it is said that again he often beat sick people, and there were several definite instances given. One must say this for him, that he was the one and only prisoner who has admitted freely to the use of a rubber hose. He says it was purely accidental, that he happened to find one near the gate just at the time he felt he would like to beat, and he kept it to preserve the piece of rubber hose from the weather. Can you possibly believe that?

You heard the account given by Sunschein and given by other witnesses, including Helene Klein, of the episode when Sunschein was badly beaten with the rubber hose and he admits he beat the kapo, and if she was the kapo that is no doubt whom he beat. He says he lost his temper and beat her. Do you think that is an isolated incident?

Lobauer, in her statement - she subsequently tried to withdraw it - said she had seen him beating and ill-treating prisoners in the compound.

His Defence was, of course, that apart from this one occasion he only beat them with his hand, because he had to. I would ask you with regard to Weingartner again to say he is quite obviously in all this business from the beginning both at Auschwitz and again at Belsen.

Kraft is in a different situation. Kraft's own story, of course, is that he was at Dora, apart from his training at Buchenwald, and then Klein Bodungen until he arrived at Belsen.

There is the one affidavit of Bialok, who says that at Auschwitz, in the summer of 1943, he caught a woman speaking to a man over the rails and that he beat him with a stick about the head to such an extent that he died.

His Defence is that he was never at Auschwitz at all. I leave that entirely in the hands of the Court as to whether you accept that or not. He was one of these people who came from the Rumanian Army in July, 1943. He says he went to Buchenwald for his training. If you believe that he went to Buchenwald and Dora, quite obviously you will not accept the evidence of Bialok. If you do, then you may well think that in fact he came with the others from Rumania and did his training at Auschwitz like the rest.

So far as Bialok is concerned, there seems to me little doubt that he arrived in Belsen with that party commanded by Stofel, together with

Dorr and those two young women. I do not think that can be seriously disputed - he obviously came with them. The allegation at Belsen is one that when those corpses were being dragged away in the last two or three days, Kraft was one of the people who were taking part in the supervision of that, and that his particular job was guarding the bread and ration store, that he hid in a hut near the block No. 9, and the starving prisoners tried to crawl through the wire, and he shot them.

His Defence is a complete denial. He says: "I have never been in that camp at all. I was in Hoessler's camp No. 1 and never went to Camp No. 1".

The submission which I make on behalf of the Prosecution is this. There was a direct recognition by Sempelinski - this was not a question of photographs. This was something you actually saw him do, and he says: "I recognise the man, and that is what he was doing".

What do you think really happened in these last three days? After the able-bodied men went, one might almost say had gone away to the firing line, after they had even taken the able-bodied German nationals, was it not plainly a question of all hands to the pumps to get this place cleared up before the British came in.

You remember Kramer told everyone that there were 25,000 corpses to be carried away and buried in the course of the next two or three days, and unless that was done food for the whole camp would be stopped. That is what one of the Defence witnesses told us.

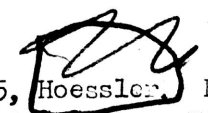
Do you think that the S.S. men who came up to camp No. 2 were really left idling in camp No. 2 where there were only 15,000 prisoners altogether, or do you think they all came and took their share? I do rebut that submission that this is what really happened in the case of Auschwitz.

Gura is no longer a matter one needs to trouble about, but exactly the same position arises in regard to Gura and in course of time exactly the same arises in regard to Schmidt.

At the end it was all hands to try and get this place cleaned up before the British arrived. There was no much cleaning up to be done in camp No. 2 because they had only been there for a short time. There were not these piles of corpses about, but there was a tremendous lot to be done in camp No. 1.

The regular S.S. men had gone, the S.S. guards, and all that was left was the administrative staff and the people who were in camp No. 2, and were not those people from camp No. 2 taken in to act as guards over these kapos who were in fact running the cleaning up of the camp?

It is entirely a matter for the Court, but I suggest that that is the proper explanation of the men from camp No. 2 being sent to camp No. 1, and you may well think that Sempelinski is telling the truth with regard to that.



The next accused is No. 5, Hoessler. Hoessler, like Kramer, is one of the old guard. He joined the S.S. as a volunteer on the very day Hitler came to power. He, like Kramer, was at Dachau until he came to Auschwitz in June, 1940. Like Kramer, he was at Auschwitz when Auschwitz was being built. He left Auschwitz in November, 1940. In July, 1943, he came back to Berkenau as lagerfuhrer in the women's compound until February, 1944. Then he went to Dachau for a short time and returned to Auschwitz and remained in Auschwitz until the camp was evacuated.

Hoessler freely admits that he attended all three types of selection parades, parades on the ramp, parades in the hospital and parades in the camp and he freely admits that as lager fuhrer he was responsible for security, for the blockfuhrers who were on the parade acting under his direct command. He admits that he knew that this business was very wrong, a very wrong thing, and really there is very little difference between the prosecution and the defence on his part in these selections. He makes no secret of the fact that he was responsible for the security of the parade and that he was in command of the block fuhrers who were there. Dr. Bimko says he did take an active part, so does Hanka Rosenzweig and so does Charlotte Klein. You have heard that little story that he said to a girl "You have lived long enough, my child, come along". Does not that fit in with the evidence? He is prepared to do these things quite oblivious of murder. One does not dispute that there were occasions when he got some girls out of the gas chamber. He said himself that young girls came to him and asked him to do so, but that does not affect the general position at all. You will find over and over again that the cruelest people who are prepared to commit the worst crimes may well have a soft spot for some people and may be kind to children. You have, of course, the fact that at other times he was quite different.

I am quite prepared to avoid controversial evidence and not worry about it, I will not waste any time about it, I will take it on his own story of his part in these gas chamber selections. I say, on behalf of the prosecution, that if you accept his own evidence with regard to these gas chamber selections he is as guilty as can be.

With regard to the public hanging you have the whole story. It is quite obvious what happened. I do not suggest for a moment that he personally ordered that public hanging, but he was the man who in fact read out the sentence and read out the warning to the others on parade. That he freely admits. It was the atmosphere, the way in which the people were treated.

He had ten years service in concentration camps altogether and then you have this remarkable statement that in the whole of that time he had never seen an S.S. man beat a prisoner. What is the position at Belson? He calls at Dora in the meantime and he is in command at Dora. With regard to events at Dora various people have given you their accounts, but perhaps the best statement with regard to Dora was from Dr. Kurzke, the S.S. doctor who was called to give evidence in favour of Barsch, the one and only S.S. man who all prisoners apparently agreed was good, the man who said: "I learned to cry at Dora for the first time", the man who said that prisoners there were treated completely without consideration.

He comes to Belson and you have the story in the affidavit of Josef Hauptman of how he met the train at Bergen station, that there were some surviving sick and he ordered them to be shot.

There seems to be no doubt that Camp 2 was better off and people were better cared for there than in Camp 1. They had not had time to get anything like so bad but Brigadier Glyn Hughes said that it was overcrowded and became dirty in an incredibly short time, that four men were in a space where there should have been one. It is true he got food and water.

There are a great number of people who seem to take credit for the organisation in Camp 2; Kramer thinks it is his, Hoessler thinks it is his and Schnitz thinks it is due to him. Whichever one it may be Hoessler was there in command and it is a matter for the Court to form their own opinion about.

The next accused is Borman. She is one of the women who admits freely she joined as a volunteer. She joined the S.S. concentration camp service to make money. Her salary went up from 15 to 20 marks to 150 to 190 marks. From working for pocket money in a charitable institution she became an aufseherin in charge of women at Ravensbruck, and she was trained at Ravensbruck for four years, 1939 to 1943. That, you may remember, is where the aufseherin were trained to set dogs on to people, we were told that by one of the accused, and it was whilst she was there that she acquired a dog in June of 1942 so it was not such a pup in the summer or autumn of 1943. She went to Auschwitz in ^{May} 1943 and remained there till December, 1943, before she went to one of the outside kommandos.

How can you believe this woman. She says, you will remember, that she never had the dog with her at Auschwitz. She says she lent the dog to Hartenstein within a fortnight of getting there and did not get it back till the following February. The first thing is: do you believe that woman would ever have parted with her dog? The one and only time she has shown the slightest sign of emotion in this Court was when the fate of the dog was mentioned. Although she says she had not got the dog with her, Birko, Sunschein, Rozenways, Volkenrath, Kramer, Hoessler, Starostka and Kopper, all witnesses who have given evidence, said that she was inseparable from the dog throughout the time she was there. Wolgrugh, Silberberg, Keliszek and Fischer, in their affidavits all refer to the dog as well. Can you really have the slightest doubt that that woman was inseparable from the dog when her dog was quite obviously in the camp.

There was some attempt made to suggest that she was mixed up with another woman named Kuck but, of course, when one enquires into it you find that Kuck was a young woman, a woman in her twenties. Could she conceivably be mistaken for this woman who confesses herself to being over 50? There was no similarity between the dogs; one was a curly black dog and the other was brown with light spots.

That Borman's behaviour was already famous in the camp is shown, of course, from Ehlert's statement. While Ehlert says: "I have never seen Borman set her dog on anybody" she says: "I have heard about it and I can quite believe it, having worked with her".

You have no less than five different occasions spoken to when she set that dog on different people. There was Kopper herself and, for what it is worth, there are marks on Kopper's arm which the doctor says are consistent with a dog bite. In fact you may think, before this case is over, and you may have already thought, that a great many of Kopper's stories are being slowly corroborated by many people in one way or another. There is the story of the Polish woman spoken to in Silberberg's affidavit, the woman Regine in Keliszek's affidavit, and the woman Szafran and Wolgrugh spoke of in Court with swollen legs who could not keep up. They gave you a full account. Have you any doubt at all that that happened?

Borman was also seen several times on selection parades and even brought her dog too. You may remember the evidence of Jonas who said she was not content merely to stand there when she was the aufseherin on duty but pointed out to the doctors: "This one looks quite weakly, she can be taken away as well". It is significant that these different people go on selections and the selection was done by the doctors and that is what I suggest the S.S. men did. She says that she never even saw the selection, never even saw it, and yet she was one of the blockfuherin on block duties and camp duties.

You have evidence of her beating people and beating people frequently. What is her answer to that? "I have never even seen an aufseherin beat at all. When she came to Belsen you have Dr. Makar's affidavit of seeing her beating a girl on the face and head with her fist for stealing vegetables and kicking her on the ground, the same thing with the girl trying to take clothing from the clothing store. There is no question of recognition there because Dr. Makar, you may remember, refers in his affidavit to the pig-sty which she herself agrees she was looking after, which was attached to the men's compound. Can you accept the word of a woman who says that during all the time she was in concentration camps she never saw a selection and never saw an aufseherin beat?

The next accused is Elisabeth Volkenrath. She says she is only 27 years of age and that she was conscripted to the S.S. in 1941. She again was trained in Ravensbruck and, of course, you will remember -----

THE JUDGE ADVOCATE: May I interrupt for a moment? It is Borman, is it, who is referred to in the charge when it speaks about Alexandra Siwidowa, an affidavit?

COL. BACKHOUSE: It is, yes. Volkenrath went to Auschwitz in 1942 and was there probably longer than almost anybody else. The allegations against her are numerous and you may think in her case there can be no doubt whatsoever about identification. There was some suggestion that she might have been mixed up with her sister called "Weinniger" but, in my submission, it is quite clear she could not be.

The first allegation is contained in the affidavit of Josephine Singer who says that she beat many people in the tailoring shop and in particular she tells the story of her throwing a Czech woman down the steps. Volkenrath was in the tailoring shop, and you find that the only people who were employed there were Czechs and old women.

Then she became supervisor in the parcel store, issuing bread. That is exactly where Sunschein says she saw her and saw her frequently beating people there. She quite frankly admits that although, of course, you have the usual "with the hands"; we are up against the same thing and it is a question of which you accept. Were these simply slaps on the face? Even if they were it would be wrong, but were they not something more than that?

She says that she never knew what the selection parades she went on were for. She admits that she was present on selection; she admits that those selected were sent to Block 25 but she says she had no idea what they were for, did not know what these parades were. She managed to go all this time in this camp when everybody, even the most unintelligent of the internees knew what they were for, and yet poor old Volkenrath did not understand, a woman who was made oberaufseherin. She says that everybody stood quite quietly and orderly, never any screaming, never any trouble at all. I would suggest to you that that woman is an obvious liar, quite an obvious liar, and that her demeanour in the box showed it. In regard to anything which was the slightest bit difficult to answer she fell back on the old saying: "I never saw it; I am sorry, I never saw it".

You have heard a number of witnesses who said she was on the selection parades, but I do not think one need worry very much about that, but you may remember that there is the affidavit of Kaufmann who says that during selections she saw Volkenrath throw women to the ground, throw them against a wall, trample on them and beat them with a stick or rubber truncheon, and that was how she behaved.

You have the affidavits of Singer, Trieger, Siwidowa and others, and everyone of them has said these were not merely beatings with the hand, they were beatings with sticks, rubber sticks, beatings till unconsciousness and sometimes death, and kicking. All she can say with regard to that is it is true she slapped their faces but she never did anything else.

Why did that woman become oberaufseherin and why when she got to Belsen did she immediately get appointed oberaufseherin? Was it not because she was right in it, right up to the hilt. She was a woman who could be relied upon to carry out the policy.

What is the position in Belsen? Again you have evidence that she continued her beating. Neiger says she beat her in the face with a rubber truncheon because her coat was open and says that she often beat people. You have the story of her depriving the 600 women of their food and water for three days because two of them escaped. You have got to remember that Kopper says that collective punishment was very much in vogue, so does Starostka, and so does almost everyone of these kapos; in fact the excuse the kapos gave was that it was to avoid collective punishment.

You have heard about the kneeling and beating from Loffler and then you have one or two specific incidents which were put, three which are not easily sorted out from one another. You remember there was the occasion when Ehlert is supposed to have caught a young Russian and stripped and searched her looking for jewellery. You have the other occasion when Kramer was present when they are supposed to have taken part in beating and you have, so far as she is concerned, the incident which she said took place when she was away. She agrees she was present when Kramer slapped that girl, according to her. You heard Ehlert's account of it, when Ehlert gave her evidence originally, and when she made her original statement, and that was that it was a good thrashing, and kicking.

That is the evidence against Volkenrath and I would suggest to you that Volkenrath is one of the old gang both at Auschwitz and Belsen and in it up to the neck.

The next accused is Ehlert. Ehlert started in Ravensbruck. She again was one of the oldest - I do not mean in years - of the concentration camp women. She started in Ravensbruck and it seems clear that she behaved reasonably well. She called those two girls, the Madlungs, who said that she was the only aufseherin there who did not beat people, she was in fact the only one who did not illtreat people. It was something very extraordinary at Ravensbruck to find an aufseherin who did not beat you or anybody else. What happened? As a punishment that woman was transferred to Lublin. The learned judge-advocate asked her one or two questions as to why it was a great punishment to go to Lublin because she in fact got more pay there. The answer, of course, is that those of us who served in England for a considerable time before Army Group came to life can well remember bad hats being put on drafts. It may or may not be a good thing but it happened. When this woman was at Ravensbruck she was on her doorstep - she lived in Berlin - and because she behaved decently in Ravensbruck she was sent off to Poland, to Lublin, to a camp in a part of the world where it was not very safe at that time, where it was extremely unwise for a German woman to go very far. That, of course, was the punishment. She was put on a draft. That is the quick answer. She drew extra pay - in a sense it was a field allowance which I think is a better way of putting it - but she regarded it as a punishment. She was being sent to a camp which was frankly admitted to be a terrible camp where people were treated very very severely.

She stayed in Lublin until eventually she comes back via Cracow to Auschwitz and really one knows very little of Ehlert in Auschwitz because she was out at the kommando Raisko. One really has no evidence about her at Auschwitz because there has been nobody here from Raisko, so far as I know. So far as Auschwitz is concerned I have no evidence against her. I think I have said that already. After I said that I think somebody said she was there but, quite frankly, from the point of view of the prosecution, there is no evidence with regard to Ehlert's conduct at Auschwitz.

Then she comes to Belsen. She makes that trip to Ravensbruck with Borman and she comes back with Grese, Lothe and Lobauer. That is the beginning of March and she becomes assistant to Gollasch. Gollasch takes

over while Volkenrath is away and she appoints Ehlert as her assistant. I do not know what view you have formed about that trip to Ravensbruck. She said that she went to get some ~~subalternaries~~ and she certainly came back with two of the oldest and most recognised ones from Auschwitz and she brings back her friend Grese as well and you have the little party back together again.

Ehlert had originally begun to tell the truth in this case, and she has told us quite a lot about the beating that went on at Auschwitz, like Gollash beating prisoners very heavily. In the original statement she gave away almost everybody and she tried to cut it down on Saturday and even further on Monday.

The evidence against her comes from a number of witnesses, Sunschoin, Hammermasch, Helene Klein, Neiger, Korkovitz, Löffler, Kopper and Weiss, of beating people standing at the gate, as she said, watching the working parties going out, beating people as they went for small things. Someone was asked to give an instance and she said like wearing a scarf.

Ehlert admits she was there but only slapped their faces. The same story again. You have the story of her searching the blocks for food and regularly beating people there - that is from Neiger. Helene Klein described her as one of the worst in the camp. You have those two incidents again in which she is concerned with Volkenrath of stripping and beating the young girl in the later altester's room. On every occasion when you have these three working together, Gollasch, the woman whom she said beat very severely, Volkenrath, and Ehlert, you find them concerned together, the three old hands who have been in the service for a very long time and who started together in Ravensbruck.

Then you have that very curious incident of the ring and locket. You have the two affidavits of Horkovitz and Löffler, 44 and 98 in the bundle. Horkovitz says that she was caught with a ring and a locket and was beaten with a stick and taken away and had to run behind the bicycle to a room where S.S. men beat her with a rubber truncheon. She was also three weeks in the cells and when she came out she was put on the duty of emptying the latrines. The first sort of inkling we got that that might be true was from Volkenrath who says "I think Ehlert told me something about an incident of this kind" and then you get the position that Ehlert says: "Well, something very like it happened but it happened without my doing anything; it was somebody else. I do remember the incident about the ring and locket; I may have gone on a bicycle, I do not remember it; if I did I went slowly so she could have walked comfortably by me. I did not beat. Why did not she strip her and search her, because when she is giving her account of the Kopper incident, when she says Kopper reported ~~the~~ girls she then says: "I stripped them and searched them". Why does she suddenly not search her? Is it not quite obvious that she would when all the way through you come across the same thing that "all other people did these things but never myself". Have you any doubt she really did beat that girl, that is what did happen to girls who were caught with jewellery in concentration camps, and then took her along to get her official punishment afterwards which is what so often happened?

Then you have that extraordinary Kopper incident. What view the Court have formed of the whole of that incident of course, naturally, I do not know and I do not think that any long speech by me will alter the view they have formed. The Court have heard the thing from various people and have, no doubt, formed a very definite view about it. The incident starts by Ehlert being annoyed by Kopper and by Ehlert slapping Kopper's face because she found her sitting in the kitchen. Then Kopper replied by saying: "I am employed by the Gestapo" and Kopper then starts to produce evidence to prove it -- again I am taking Ehlert's story -- and it proves to be untrue. Have you any doubt that Ehlert would have quickly beaten her? During this why did Gollasch come in and join in? It is always the unfortunate

Gollasch, the only woman who does not appear in the dock. All the beatings alleged to be done by Ehlert, whether it is on Ehlert's door or on anybody else's door, is always blamed on poor old Gollasch who is not here, and you have that beautiful picture of poor Ehlert standing in the corner frightened to death whilst these people are beating Kopper. Is not it quite obvious what happened?

You have the other curious incident where Ehlert, I suggest, is trying to make amends to the others for what she gave away in her statement, the story of giving Ida Friedman some bread, butter, sausage and a boiled egg the day before the British arrived. Ehlert says that Ida Friedman was a Jewess from Franco. Everybody else says she was Polish. Surely it is not very easy to mistake one from the other particularly for a woman who had been stationed in Lublin for a considerable time, in Poland? Well, that is the evidence.

The next accused is Groso. Grosa is a curious woman. Grosa is quite frank about almost everything which is suggested against her. She was trained in Ravensbruck. She says she was conscripted into the S.S. Do you believe that? If she was conscripted into the S.S. why do you think her father thrashed her and turned her out of the house? Is that the action of a father to a daughter who has been conscripted into something?

Grosa's sister says that when they were children they both wanted to be in the Bund Deutscher Madchen but their father would not let them, but Grosa had ambitions to be in the Nazi Youth Movement before she ever went away and then she goes away to work and when she comes back dressed up in the uniform of a concentration camp guard her father gives her a thrashing and turns her out of the house.

It is one of two things, is not it? Either she was taken against her will or she told him what sort of things were happening and what she was doing?

She graduates from Ravensbruck and comes to Auschwitz and her first job, according to herself, was telephone duties in the block fuhrer's room. Kopper, as a matter of fact, said they never did employ women on those telephone duties at all, that that was the blockfuhrer's job, the aufseherin were working about the camp.

She admits to being in charge of the strafekommando for two days. I would suggest to you that that admission is made for one reason only and that is because Volkenrath had unfortunately given away unthinkingly the fact that she had seen Grosa in charge of the strafekommando. Kopper, on the other hand, says she was in charge of the strafekommando for a very considerable time, some seven months.

You will remember Kopper's story about working in this sand pit and you will remember that Starostka said: "Well, I remember the kommando and I remember Kopper being in it and I remember her working on the sand, but I cannot remember whether Grosa was in charge".

You will remember the story of sending the Jewesses to fetch things beyond the wire. You will remember Kopper's story of the enquiry which resulted. Can you imagine Kopper making up such an extraordinary story? I would suggest to the Court when you examine Kopper's story - and I would not suggest that anybody should be convicted entirely on Kopper - you find that there is a great deal more in it than meets the eye at first sight.

Then she is in charge of a gardening kommando and you have the stories of her riding out on a bicycle with the dog. Well, she has denied ever having a dog. She had a bicycle but she never used it as aufseherin were not allowed to. I asked one of the witnesses for the defence, if you remember, if he had seen working parties with this woman going out and he said: "Yes". I said: "Did they ever have bicycles?" and he said: "Yes, they did. They went on their bicycles". Well, that is entirely a matter for you as to whether you believe it or not, but you have a number of witnesses with regard to it.

Then you have the stories of Rozenweig, Watinik and Triszinska - Rozenweig in person and the other two in affidavits - of her being in charge of this kommando with Lothe as the kapo and setting a dog on them. No one, I think, has suggested there is a woman who looks like Grese. She then came back to camp duties and went to the post office. When she was in the post office it is quite plain from Hoessler's evidence that she also had to help the blockfuhrers in the morning when the working parties came in, and here again you have a number of incidents which I do not propose to go through. They are incidents which are said to have occurred whilst she was acting as blockfuhrer. Then quite suddenly this young girl is appointed in charge of the aufseherin in Camp C, the camp where the gassings of the Hungarians are about to begin. She is put in charge of 50,000 people.

You have heard about her having this collophane whip made which she says was made to hurt. That was its purpose. You also have the evidence of what happened in Camp C. There were the long appells. She says: "I gave orders to the aufseherin to count, count, and count again; and the parades sometimes took three to four hours. She said: "I carried a stick and if people ran away from these selections I went and dragged them back and I whipped them". She is quite frank about it, and on her own admissions alone I would suggest that at Auschwitz there is ample evidence to show she was illtreating, beating, and prolonging appells.

Then she comes to Belson, and what is the position there? There she is made arbeitsdienstfuhrerin and again you have stories from the prisoners as to how she beat people. She stood at the gate beating them, she beat girls working in the kitchen, and beating people and getting them to do sport. Her attitude is a curious one. She says: "Although I carried a whip and beat people at Auschwitz for some reason I never did it at Belson. I always used my hands at Belson, although at Belson the prisoners were so horrid I did not like touching them".

What I suggest to you is this. So far as that girl is concerned her sister gave you the key to the whole situation. She stated that when she was a child she was a frightened child and a little coward who ran away, and she adopted this doctrine of Nazism which turns the coward into the bully. Having failed to get permission from her father to join the Nazi youth organisation she got away from home and got into the S.S. She went to Ravensbruck and there she found her courage, because people dare not hit back. Then she she got to Auschwitz she had her revolver and had a collophane whip, and at the age of something like 21 she finds herself in charge of 30,000 women. She makes no secret of it. She beat them, and when she came on to Belson can you doubt that she carried on in precisely the same way? Is not it typical of that type of girl that at the end when she hears the British are coming she tries to curry favour and begins to talk to the Lasker girl and suggests that, of course, she is really one of them and she is surprised that the prisoners do not like her.

So there you have Grese and now I come next to Lothe and Lobauer. These two women are in quite a different position to the ones we have had up to now. Lothe is a prisoner, a German woman sent as a prisoner at the beginning of the war for refusing to work in a munition factory. She was sent to Ravensbruck, Auschwitz, Neuengamme and Berkenau, and she was treated very badly. One does not deny that, but I would suggest when she eventually

became a kapo from then on she was on the other side. She worked with the S.S. and against the prisoners. There are incidents after incidents as to what she is alleged to have done, various beatings and so on. What is her answer to it? She denies everything completely, although she agrees she was treated very badly at Ravensbruck, and says all the aufseherin there had pistols. If it is so untrue that she did anything and that she was not a bad kapo, why did Volkenrath promptly make her a kapo again at Belsen and put her in charge of the vegetable kommando?

Lobauer is again the same type. She was another kapo. She went very much through the same process at Ravensbruck and Auschwitz with the same party as Lothe, eventually coming together with the rest of them to Belsen. You have endless allegations against this woman of beating. Again I will not go through them all. You have the affidavits and witness after witness. I would say, without actual counting, that there were probably more witnesses testifying as to this woman's beating than anybody else. You also have that story of the pushing of people into the ditch with another kapo whilst the S.S. stood by and watched. She is more frank. She says "I admit carrying a stick at Auschwitz and I admit using it".

You remember that for a long time she fenced about what her duties were in the camp, but she eventually agreed that one of her duties was to see that the kommandos inside the camp did their work. Have you any doubt at all that that woman became just as much one of the party as the other S.S. women?

The next one we come to is Klippel. Against Klippel there is very little evidence. The evidence is that he was employed in the kitchen at Belsen, that he frequently beat women in that kitchen where he worked and that he twice shot Jewish women who approached the kitchen in search of food. That is the evidence of one deponent who says he was employed in the kitchen with Klippel. The defence to that is a complete and utter denial. He says that he was never in that camp at all, and he called a lot of evidence undoubtedly to show that he came on a transport from Dora. You may think it is questionable that on one affidavit of that kind it would be right to convict him. If, of course, you are satisfied that he came to the camp in the last few days after the others had gone away you might think it right to convict him, but frankly -- and it is entirely a matter for you -- you have one affidavit which is quite contrary to the main body of evidence.

Now I will come to one of the most interesting people, Schmitz. The evidence against Schmitz is quite simple. You have the statement of the man Jeany who disappeared, who said that a group of prisoners were standing opposite kitchen No. 1 on the 14th April when Schmitz appeared on a bicycle and fired his pistol into the crowd several times. He fired at the group and the rest ran away and Schmitz cycled on. "He always did this when he saw a group together". Now I am quite prepared to agree with Capt. Roberts that this must be in Camp No. 1 and not in Camp No. 2. Then you have the affidavit of Raymond Dejeu who says: "I know Oskar Schmitz and although I have not seen him beat anyone my friends told me he often beat people".

There was a great deal of criticism that that was put in as an afterthought. It was not until Schmitz brought out this story that there was any importance in putting that affidavit in. It did not say anything against him. What it did say was that he was in fact at Belsen. It was not until Schmitz put up this story that he was not in Belsen that there was really any value in the affidavit.

You have one or two extraordinary features about Schmitz's story. One does not doubt, I think, after hearing the evidence, that Schmitz in fact lost his clothes somewhere, whether he had lost them or whether they had been taken from him, but there seems little doubt that Schmitz suddenly appeared outside the S.S. quarters trying to get in, and that inside the S.S. quarters there was a uniform which fitted him very well. You may think that if an

S.S. man was in any event going to be arrested, once he had been recognised even if he was running around in his under-pants, the safest place for him would be in his own room with a British guard outside, but that is entirely a matter for you. I would suggest that there is nothing in that story which is in the least inconsistent with Schnitz being a member of the S.S.

There are one or two small points in his own story which I would ask the Court to consider. You remember that he was arrested in Vienna in January, 1940, as a deserter. He was not sent to a concentration camp but to the military prison for deserters at Emsland. He stayed there for four years, from January, 1940, until March, 1944. In March, 1944, he was sent to Vienna. Is it a coincidence that Vienna was where S.S. recruits were apparently being sent? It was where Weingartner and the others were collected before they were sent on training. What do you do with a deserter when he has finished his sentence? You put him in the ranks, and you may well think that he left Emsland and was put back in the ranks where he came from or where he should have been. He tells us he was sent off with a transport of Hungarian Jews after being held in Vienna for a week. Do not you think he may very well have been sent as a guard?

Another small point (of course it is only on the small points that you catch out a liar who is telling a good story) is when he says he was in Tottenborn as a lager altester. When he gave his evidence in chief he said a motor-cyclist came and brought him the order that he was to evacuate Tottenborn. When I asked him about that he agreed that it did not mean him but an unterscharfuhrer who was there. Is not that just a small slip which gives you a pointer as to whether he is telling the truth or not? Similarly he tells a story about going down to Dora to get medical supplies. When it was pointed out that it was rather unusual for a prisoner he said: "Oh, well, an unterscharfuhrer took me". My suggestion is he made two very bad slips there.

Having arrived he apparently instructs Hoessler as to the running of the camp, No. 2. Can you accept that if he was really a prisoner, a lager altester over 28 prisoners, that he should suddenly become in charge of 15,000 people and tell Hoessler how to run the camp? He said he had nothing to eat for six days on the way. Well, that is entirely a matter for you. You must have all formed a view one way or the other about him. I would submit, however, to the Court that his story does not ring true. What is very much more likely is that he came as an S.S. man and, like the other S.S. men from Camp No. 2, in these last few days he cycled down to Camp No. 1 to guard and to supervise the clearing up of Camp No. 1.

The next accused is Francioh against whom there are many allegations. There are only one or two points I want to deal with in regard to him. I have no intention of going through them all. The first point is this. Francioh quite obviously tried to set up what was an alibi. He quite openly tried to put up the story that he was in gaol during the relevant periods in April. He invited his own kitchen staff to say how people had been treated in his kitchen, and they did. It is true he was in there but he was not in gaol during the period he was talking about. His gaol period was before that, during the time when he told you he was doing nothing. On the evidence of the people from his own kitchen he is an obvious liar. You have a number of different shootings alleged against him. Some criticism has been made of Dr. Bimko's evidence, and I particularly mention that one because in her affidavit she mentioned a man prisoner and in Court she said: "I never said a man, I have throughout said a woman".

Well, the answer to that is this. The German for "prisoner" is "Heflinge" which is a male word, and whether it be a man or woman it is "Heflinge". If you want to make it into a woman you use some different word. The woman who was acting as interpreter -- I am not sure which was it was -- was not a German woman. If Dr. Bimko uses the ordinary German

word "Der Hoftling" that would be quite applicable to a man prisoner or to a woman prisoner because in the German language the article takes its gender from the word and not from the person represented by the word. That might

well be written down as a man prisoner. I merely put that as a possible explanation because I would ask you to regard Dr. Birko as undoubtedly one of the most reliable witnesses in this case.

The interpreter hearing "Der Hoftling" wrote down "man prisoner", whereas she used it merely in the sense of "a" prisoner". That would not become apparent if it was read through in German because again the word would be "Der Hoftling" which would in German mean either male or female.

There is some criticism, too, of the evidence of Szafran, because you will remember she, in her affidavit, refers to a Schneider gun and then afterwards says she never heard of it. That may well be, because what somebody has done is to try to put down the substance of what they thought she was saying. An interesting piece of corroboration of Szafran's evidence in that connection is this. In the witness box, quite apart from what she may have said in her affidavit, Szafran said that Francioh had a revolver and Jenner had a rifle. You may remember that Francioh asked questions about how they were armed, and it was put to him that Jenner had a pistol, but he said: "No, Jenner had a rifle". It is rather strange, but it is on these small points that you may find corroboration.

Francioh, of course, was let down by the members of the staff of his kitchen. Is not it plain that he was not only unpopular with the prisoners, but quite obviously unpopular with his own staff? He is the only one upon whom they have turned round in this way.

The next accused is Mathes. All the allegations against him are to be found in three different affidavits. They are all allegations of the same type, shooting people trying to steal from the kitchen. There has been witness after witness called to say that Mathes was always in the bath-house, but do you think he was really left in the bath-house playing cards in those last three days? Do you really think that when they were trying frantically to clean up the camp before the British arrived that Mathes would be solemnly playing cards in an empty bath-house with neither water nor electricity?

Who were these people who were guarding the kitchen? The guard company had gone away, and there were SS people about that camp guarding. Is not it quite obvious that that is the time when Mathes, who had been a cook in the kitchen, was brought out to do the guarding, and that that is when he started doing the shooting?

If you remember, Sauer, when she was the woman in charge of the bath-house, said: "I was sent out and I had to do duties in the compound". Have you any doubt at all that the same thing happened to Mathes when the women were using the bath-house or, more particularly, in those three days when nobody was using it? You will remember the letter which was read from someone in Holland. The woman who wrote the letter said that the accused was employed in the cookhouse. She never mentioned that he was employed for the last three months in that bath-house. On the contrary she said she remembered him joining the SS. You will remember she said he was not originally in the SS but he was bombarded into joining the SS which he did not like. According to him, however, he joined the SS ten days after he left the kitchen and went into the bath-house.

The next accused is Kulasser. He, you will remember, was a sergeant in the last war. He is 53 years of age and was, according to himself, conscripted in May 1944 and became a sergeant straight away. He went first of all to Struthof concentration camp near Danzig for training, and then, again according to himself, on the 15th September 1944 he went to Mittelbau. He was there transferred to the SS although you may wonder what he was doing on the concentration camp staff at Struthof if he was not in the SS.

You will remember the allegations against him with regard to the transport. He agrees he was in a coach by himself, but he says he was not in charge of the transport. Well, perhaps one does not need to quarrel with that. He was, however, quite obviously the senior N.C.O. on that train. It may be that because of his technical knowledge that the other man was in charge of the transport, but a prisoner would not know that.

On that transport you had various allegations made against him of shooting prisoners on the way, and that there was no food or water on the journey for the Jews and very little for the Christians. You may remember what Zamoski said about it. When he asked for water he was told: "You can get some from my pistol". You have also allegations of beating prisoners at Belsen, shooting prisoners at Belsen station, and of beating people when ordered out to clear up the roads. Have you any doubt about these stories?

Hoessler himself says almost exactly ~~what the~~ prosecution allege. He says: "I did put him in charge of a number of blocks. I did not put him in charge of one block as he says. I put him in charge of a number of them and I certainly did order him to get out and clean up the roads". You have a direct conflict between Hoessler and the accused. Have you any doubt about it? Why should Hoessler suddenly join in with the prosecution in this matter?

With regard to the water situation on the train, you have this extraordinary story about getting hot water out of the engine. You have Kulasson's story that you could not get water yet you have Dr. Schmidt who says: "There was no difficulty about getting water and there was not a single complaint about it". Do not you come back to the old trouble that, having put the prisoners into the carriages, nobody cared whether they got food or water? That is why transport after transport came into Belsen with people dead and dying in it.

Now I come to Burggraf. Burggraf is one of the Polish accused and the evidence against him is that he behaved badly at Dritte, and when he came to Belsen he continued to do so. He became a functionary in block 19, where he armed himself or was armed it is alleged, with a table leg. It is strange that at Belsen he should be described as having a table leg and at Dritte he is described by quite different witnesses as having had a square thick stick which, you may think, sounds very much like a table leg. He admits that he was a foreman at Dritte and he admits that some of the things happened at Dritte although, of course, he was never responsible for them. Again, he is one of those people who has never seen a capo carrying a stick. He says he did beat people if he had grounds, and that no capo ever beat anyone unless he had grounds. He does not admit that he was a capo.

You have a very peculiar story about block 19, about which he and Ostrowski did not appear to be as one, as to whether people from that block did any dragging of corpses or whether they did not. He says that nobody from block 19 dragged corpses. The block was excused. Ostrowski, on the other hand, says that men from camp 1 came and chased the fit men out of block 19 to do it. Burggraf was, apparently, a fit man himself, but he says that he was not required to go. He never even saw it because he looked the other way. It went past and he was standing outside the door, but he never saw a soul beaten on that procession. Can you believe that? He calls a witness whose name is difficult to pronounce who says he was one of the camp police. Almost everybody who is accused of getting people on parade to drag corpses says it was these police who were doing it, and this witness said it was quite impossible to miss seeing prisoners beaten on this procession. It went right past the block. What I suggest to the court is that it is quite true that Burggraf did in fact accept the function; did in fact in that block wield that stick, and did in fact beat prisoners with it. This is the first of the Polish cases and that is why I stress it. It is entirely a matter for the court as to what view they take as to whether that man did not associate himself with the ill treatment that was going on in the camp, and ill treat people himself as one of the functionaries of the camp having accepted a post however minor on the staff of the camp, although he remained a prisoner. If the court think that is so, then, in my submission, he is guilty of a war crime the same as the others.

Egersdorf is the next accused. He says he reached Delsen late in April. He is one of the old hands from Auschwitz. He had been there for four or five years and he was put in charge of the food store which included the bread store.

The evidence against him is that of Almaleh who says in her affidavit that she saw a girl come out of the bread store with a loaf just as Egersdorf came up. He asked the girl what she was doing with the loaf and the girl said she was hungry and ran away. Egersdorf then pulled out a revolver and shot her. There is evidently no mistake in the affidavit because not only does Almaleh say she knows Egersdorf, but Egersdorf says he knows her. He says he dismissed the girl because she did not work properly. Is that what really happened to people who did not work properly at Delsen, that they were dismissed? You may think that it does not seem to be in keeping with what other people have said in this court. He said he only went to the bread store once and Klein says she never saw him there at all although she worked there.

You will remember that discussion which took place as to the distance between the vegetable store and the bread store. It is, of course, entirely a matter for you, but I would suggest to the court, as I suggested at the time, that there was a deliberate attempt to mislead the court at that time as to the distances between the food store and the vegetable store and bread store by talking of the food store. The witness knew perfectly well that we were talking about the bread store. The impression was sought to be given to the court that this could not possibly have been seen by the girl who was working in the vegetable store, because the food store was 300 yards away. On further cross-examination, however, it became plain that the two stores about which we were talking were in the same building, and that this woman was working next door to the bread store.

How reliable he is is perhaps seen by the rest of his evidence. He never saw a single case of beating at Delsen. He remembers the procession dragging the corpses; it came past his bread store, but he never saw any prisoners beaten. That is his evidence. Can you believe it? When a man lies like that, can you believe him when he is speaking about himself? If he is prepared on oath to say that he saw the procession but never saw a soul beaten - never saw a soul beaten in Delsen, never saw a soul shot in Delsen, how can you believe him?

THE JUDGE ADVOCATE: Before you leave that, Colonel Backhouse, would you just tell me what your view is in that case? There is only one affidavit.

COL. BACKHOUSE: That is so.

THE JUDGE ADVOCATE: That is the only concrete evidence as far as I know of an allegation of ill treatment. The point was made by one of the defending officers that the evidence goes to show that the ill treatment was not of an allied national, but in connection with a Hungarian girl. I should like to know what view you take of that, because it has been put by the court, rightly or wrongly, that that is not an incident which would support a charge in which ill treatment of allied nationals is alleged.

COL. BACKHOUSE: The way in which I put it is this. I said throughout the only reason for putting these particular incidents to any of these people is to show that they, having joined this staff, accepted it and joined in this ill treatment of persons in the camp. The fact that the individual person who is actually seen ill treating is Hungarian or German would not, in my submission, matter, if the court believe that this person is taking a part in this systematic ill treatment which is going on. I will put it this way. Suppose there are a dozen men standing in a row, and that three men come out and get together to shoot the dozen. Let us suppose that the first one picks the first four, another picks the second four, and the third picks the last four. Let us say that the first four are Poles, the

second four are Hungarians and the last four are British. Of course, those three men would be guilty of killing all the twelve, and the fact that each individual one killed four of a particular nationality would be neither here nor there. The position would be that those three men would properly be charged with killing the twelve, and if it was important in that case that some were British, then each one would be guilty of killing four British as well as the others. What I am really saying here is that this man was one who came to Belsen, who joined the staff, and accepted what was going on, and that he added his little bit to the whole. The fact that the particular person he killed is Hungarian is neither here nor there if you are satisfied he is in fact one of the people who came and engaged in this practice of shooting prisoners at Belsen.

Now the next case I deal with is that of the accused Pichen, against whom there is a great deal of evidence. There are a number of witnesses and the only really point I want to make to the court in regard to him is his change of appearance. You may remember that a considerable point was made by the defending officer that Litwinska failed to recognise him although she gave evidence of an incident which clearly referred to him. Litwinska was not the only person who failed to recognise him. Quite a lot of people failed to do so, and that was why I drew attention to his changed appearance. He himself agreed that at Belsen he wore his hair long, and if one looks at a photograph of him at Belsen, there is a difference. There is no particular reason why Litwinska should recognise him so quickly because he has changed his appearance considerably.

You will remember I made the same comment about Ehlert when a few people were unable to recognise, including some who were supposed to say something in her favour. If you look at Ehlert to-day you will notice that as soon as the witnesses have finished giving their evidence she let her hair down although she wore it up before.

You may think that it makes quite a substantial difference in her appearance, and it certainly does in the case of Pichen. You may think that there is a substantial difference in his appearance from that at Belsen.

I do not propose to go through all these affidavits. There is a great deal of evidence against him and there is a great deal of evidence as to what went on in his kitchen in particular. Of course, there is the account of the shooting on the day of the SS Parade. Well, his story is that he never came back at all. They say he did and that he shot at people and killed people.

A nother point which was made strongly by the Defendant is the question of whether he was ever in the bath-house at Dora. It really does not matter in the least whether he was or not, of course, that a point is made of it to show how unreliable these people are.

There is not the slightest evidence he was not in the bath-house at Dora. At some time he came on this journey from Blochhammer to Gross Rosen and on to Belzen, and he took an unconscionable time travelling from Gross Rosen and there was ample time to have been at Dora, and as we now know a great deal more about Dora, it would be very easy for him to have been at Dora without other people who have been called seeing him.

There is just one point on this question. You remember witness after witness was asked: Did you ever see him at Dora; did you ever see him at Dora". Do you remember Kreutzer, that extraordinarily military man from the pay office who was asked the same question and he, of course, is one of the people who have not been in Court. He looked at him for a very long time and said: "Did he wear a Luftwaffe uniform when he was there?".

Why I draw specific attention to that is that if Pichen's story is true, he would be wearing Whemacht uniform wherever he was, whether he was at Dora or not; he would not be wearing S.S. uniform. You may think, on the other hand that the Paymaster of that camp was in some doubt for a time as to whether he had been there or not, and his recollection was of him not in S.S. uniform. I do not put it higher than that he might have been there. I really do not mind whether he was or not, but I do suggest it has not been proved that he was not there.

The next accused is Otto, the electrician. Now the evidence against him is very slight and simple, and again it is in a very small compass. The question is: Do you believe him or do you not? The allegation is that at some time - because under no circumstances do I ask the Court to rely on dates or to worry one way or the other whether these dates were correct or not - he caught Stojowska taking a bed from outside block 213, and a day or so later he came in to block 201, where she lived, and found the other blockaltester had also got a bed and beat them both.

He says: "I am an electrician; I never went near the place. Then he goes on to say that it is quite true he never went near the place but at the beginning of March he did go to block 209 to put the artists' place right. He did go to do repairs to the lighting in blocks 195 to 203. Well, 201 is one of the blocks we are concerned with, so he was about those blocks.

It is a matter entirely for you. There is, as I say, simply the one affidavit, but this man was undoubtedly round about that part of the camp and was it or was it not the practice of the S.S. man, if he saw something irregular as he was going round the camp, to take action there and then? That certainly seems to be the case from some of the other evidence.

A great point has been made that block 213 was never empty, and therefore there were never beds outside it. But is that right? We have heard that block 213 became the men's typhus camp. We have heard that it was scrubbed out, or part of it. Do you not think that when the place was scrubbed out it is precisely the time when the blockaltester's bed would be put outside and if a bed was put outside it disappeared just like that. It is strange, is it not, that about that time part at least of the place was being cleaned out and it was being changed from a women's hut into a men's hut and it was having the floor scrubbed with chloride of lime and the beds scrubbed. Is that not just the time when the one small piece of furniture in the place, the bed, might have been put outside?"

I suggest that lends colour rather to the story. It is entirely a matter for you and it depends on a single affidavit.

Now the next three accused are Stofel, Schreirer and Dorr, and I propose to deal with Stofel and Dorr together because it is quite obvious they are bound up together. Again, I have no intention of going right through this story, but what I do suggest from the outset is that Stofel and Dorr knew they were coming to Delsen.

Both of them, through their counsel and when they gave evidence tried to give the impression that they did not set off for Delsen but for Neumangum. In the box they both said that they would not go that far, but they did not know where they were going, but either to Heisberg, Neumangum or Delsen.

Then they produced these two girls who said: "Oh no, they told us they were going to Delsen, because this is where we had to go and our Oberaufseherin let us go with them because that is where they were going." Have you any doubt that is where they were going at the start? It is only a pointer as to whether they are telling the truth later on or not.

A great point has been made, and rightly made, that the first night was spent in Osterode in barracks and not in the stable as the affidavit says. Let me suggest a very simple explanation to that. Osterode was, of course, part of Dora; we know that now, it was one of the outside camps of Dora. Have you any doubt that when the witnesses speak of the stable on the first night, and it being near Osterode, the position is they remember the stable the first night after they left barracks? They have no doubt argued about this, or talked about it on the journey and they have been told they stayed the first night at Osterode, and that is why you get a description of Zeesen and the stables there. That fits, according to both the girls' story, exactly that what the witness suggests, but they call it Osterode because they thought the first night away from the concentration camp was Osterode, whereas in fact they were still in the concentration camp area.

Is it not quite obvious it was Zeesen where these shootings took place and for this reason, for this very good reason, that the first day's march was to Osterode and the next day's march was a very different proposition, to Zeesen. It is said that the people who fell out were put on handcarts and then the next day would be put on the ration lorry. But do not forget that the next day there was not a ration lorry at Zeesen, it did not turn up, and that is why they stayed the extra night there. The position was that they were ready to move off, there was not a ration lorry to put those people on whose feet had given out, and that was at Zeesen, where they had been staying in stables just outside the village.

Is that not precisely consistent with the story which has been told by the witnesses for the Prosecution?

Then one comes to various places along the route and you have the extraordinary incident of Gross Hehlen. I do not suggest for one moment, and nor have I ever suggested, that these people were not turned off at the village at Gross Hehlen by someone who came out and said, "You are off it into the line, move up". What I have always suggested is the suggestion that these prisoners were shot off down the road with the help of fighting S.S. whilst the real guards finished there packing up and loaded the prisoners go, and it was the Waffen S.S. who did the shooting as they went.

That side of the incident, I suggest, is made up to account for the persons who were shot on the way, and in particular it may well be to account for three bodies which the accused apparently knew were found there. The accused produced witnesses with regard to that - the Prosecution did not. It may be that that incident was to provide for the three bodies which

were found by someone in Gross Hehlen, and therefore the Waffen S.S. are introduced.

That story will not, in my submission, stand examination; there are too many things to go wrong. You have heard all the accounts, and I do not propose to go through it now, but there are too many incidents which are wrong.

You have the accounts of both Dorr and Stofel, which agree on every point. You have this story of the S.S. in a barn some 50 yards away from the prisoners washing and shaving. On the other hand you have the two girls saying: "Nothing of the kind; we were all together". You have the story of Dorr and Stofel of these people rushing up chasing the prisoners out of the barn, firing as they go. You have the other tale: The prisoners fell in. Stofel gave the order to the S.S. - so Steinluech says - and the S.S. guards gave the order to the prisoners and the prisoners fell in.

You have the Purgonmaster, obviously a decent man, with no interest one way or the other. "I do not know anything about it except I saw them all fall in and wait there." Now that never occurred if Stofel's story is true. These people were chased down the road out of the barn, and it was utter chaos.

You have other small points. You have the story of Dorr's that he was left absolutely alone. Dorr was going to be well out of this party. Dorr was left by himself in the courtyard, left there shaving when everyone had gone.

An officer came up to Dorr and said: "Are you part of this party? Well, come along too". That is his story, but will that do, because Neumann says the prisoners fell in and the S.S. guards fell in and Kraft and Kunz stayed behind all the time. They were the two cooks. Where were they when Dorr was talking to the S.S., because Kraft and Kunz stayed there right to the end, because they were there to load up when the farmer came, and someone, of course, went and collected that farm cart.

You have the quite ridiculous suggestion - I suggest to the Court it is quite ridiculous - that these Waffen S.S. not only chased the prisoners down the road to this wood where they stopped, but actually accompanied them the whole way to the aerodrome six kilometres away. Can you believe they would dream of doing that?

By this time the S.S. guards had come up. Would fighting troops go six kilometres there and back when their own guards were there and when accommodation was being provided for them? It is not quite obvious that the real story is that they were told to clear out? Stofel fell them in and as the woman from the public house said, "they moved away in good order and at a normal pace."

Again, a point was made by the learned Judge Advocate that if there was this indiscriminate shooting and firing, why was there not a single wounded man and why were these corpses shot in the side of the head.

I suggest the corpses are entirely consistent with the story all along that Dorr shot each straggler along that route as that tale goes, and when you realise how cheap life was held in the concentration camps; when you know how prisoners were treated at Dora and the deaths which occurred at Dora, I suggest the story must be true. You remember one of the girls accused told us that in the very short time, a matter of a few weeks, at least 12, no less than 200 to 300 people died in his hut alone owing to the way they were treated. When you have that, is it surprising to find one of the guards who has been in this concentration camp for a long time shooting people as they go with the full approval of the man in charge, Stofel?

You have also, of course, the incident when they got to Heesler, the question of the report that is made to Heesler. I only mention the Court of it - they will form their own view on it - and Heesler's statement that, of course, he asked for an explanation and they said that it had occurred.

The next accused is Schreier. He again is one of the most interesting accused, and I have no doubt the Court will, by this time, have formed a view one way or the other, and I do not propose to labour the point at all except to point out one or two things.

The first thing is this. Let us be quite clear this does not depend solely on the identification of this man by Kopper, because you have, of course, Gertel Dierant, who identifies him from these photographs and says he was an S.S. man at Auschwitz. "I know nothing about him. I was told by male prisoners he was extremely cruel. I have no doubt as to his identity". That is Dierant.

You have Kurewiski who did not recognise him from the photograph at all; he recognised the man himself. There is no question of a mistaken photograph there. He remembers him as being at Auschwitz and he remembers seeing him there for some time and as being the blockfuhrer who looked after his particular block. If he is to be believed Kurewiski has ample opportunity of recognising him and he recognised him personally and he is the man who really made allegations against him.

Kopper is merely corroborating these two, but I would suggest that Kopper's evidence is entirely consistent and not inconsistent at all with the story which is told by this man, because Kopper says that for a time - and that is all - at Auschwitz he was in charge of the cells. Then when she sees him again in Belsen he has become a member of the political department.

His Defence, as you know, is a complete denial and his story is that he was nowhere near there. Kopper may be a liar and Kopper may be unreliable, but Kopper cannot be a diviner, and how is Kopper to know when she makes that statement to Captain Fox, before she sees the man in custody, before she interviews him - which she obviously has between the unwritten statement and the written form - that his nick-name is "Hanzie" and that all his girl friends call him that? Did she divine that? Was it thought-reading, or had she in fact spoken to him? How did she divine that he spoke these many languages before she ever spoke to him? - because he obviously does. You may remember him answering me in English before he realised it had not been interpreted. He agrees he speaks Russian and German, and it is quite obvious that his mother speaks excellent Polish, and he agrees his mother is of Polish extraction and he was stationed in Poland for some time. How did Kopper know all this before she had met him?

That is my first point. How did Kopper know he was interested in music before she had the interview with him. He agrees that he is.

Then there is the question of these boxes. You have heard how Kopper led the party to the right hole although the boxes had gone.

Then you come to the number of coincidences. How many coincidences can one have before a thing is proved? In the first place this man is recognised by Kurewiski and he is said to be an S.S. man although he is wearing a Wehrmacht jacket and S.S. trousers and boots. When one looks in his pocket there is a photograph of him dressed in S.S. uniform. That is coincidence No. 1. Well, he gives an explanation of it which you may or may not accept.

When his wallet appeared, although he says he was never in Linz in 1945, you find this theatre ticket with the photograph of the girl Christal.

Then you find a letter which makes it clear he has seen Christal reasonably recently, that is, according to him, another Christal. That is the second coincidence.

Then you find a photograph with the inscription on the back, "In memory of a happy night" or something of that sort, "in Soltau". That is the next coincidence. Of course, Soltau is just 45 kilometres or thereabouts from Bergen-Belsen, and he says it is a place with a railway station where he met the girl. I would invite the Court to look at any gazetteer of Germany and see if there is another railway station called Soltau. I suggest you will not find any Soltau at all; it is not a common name. Is it not quite probable he was at Soltau. There is no need to write on the back, "Thank you for a happy night in Soltau" if he was never in Soltau.

Then you come to the card which he produced, and you have again a curious point. It may be purely coincidence, but why does the doctor put an S.S. rank after his name? Is that not just the type of slip that a man who is making out a false card and has been in the S.S. might make? Instead of putting the Army rank he puts the S.S. rank - not very different - but the S.S. rank. How is it that he is wearing S.S. trousers and boots that fit him? Another coincidence. He says they were taken from a wounded man.

I do not doubt his story that he was perhaps wandering round and crossed the River Elbe the way he says he crossed it, because the young men of that camp and the fit men left that camp when the British came and they went to join the lines, but can you have any real doubt at all that this man was in fact a member of the S.S., and that the uniform he was wearing was really his and that he was stationed in Belsen when he took that girl out in Soltau?

The next acc used is Eric Pirsch. The sole allegation against him is the affidavit which alleges that he was kitchen chief of kitchen No. 1. The whole of the evidence goes to show that he was not and he was the medical orderly in camp No. 2, and I could not ask the Court to accept that he was the kitchen chief of kitchen No. 1.

What I would ask the Court to do is to have a good look at Pirsch and have a good look at the photograph of Pichen, not Pichen as he is now, and say it is quite obvious that the girl is speaking of the kitchen No. 1 and has mixed the two. I would not ask the Court to say on this evidence that he was ever in Belsen at all.

The next man is Zeddel. There again you come back to one of the boys, the Lageralttester. Again you have a great deal of evidence and you have very considerable admissions. He admits that he carried a stick regularly. He admits that he might have beaten with that stick.

There is nothing that I would particularly draw your attention to. There is affidavit after affidavit about him and he admits freely what his duties were as Lageralttester, and we have all heard what are the duties of a Lageralttester so often now that I do not propose to dwell on it beyond saying that here you have a man who accepted the responsibility as one of the senior prisoners in the camp and accepted that position and abused that position as all the S.S. did, and identified himself completely with the S.S. in the camp.

Then you come to Schlomoiewicz. Schlomoiewicz was in a number of camps and before he came to Belson he was a kapo at Laurahutte and Hanover and eventually at Belson and it is said that he regularly beat people, that he used a rubber cable at the first two and a stick at Belson. You may think, when you look at the affidavits, that they are very moderate against him, and deliberately made moderate. You may remember that in particular I am thinking of Judkovitz who would be prepared to say that a certain amount of violence might be necessary, but the beating as done by Schlomoiewicz was entirely beyond anything that was necessary. Before that, as a matter of fact, we found from the witness he called that he had been Kapo at an outside kommando at Monowitz as far back as 1943 and was one of the oldest kapos.

His defence is a simple one. He says, you may remember, that he admits slapping people in preference to reporting them to the S.S. but he never used a stick, only his hand. He was the man who told us the rather extraordinary story of his two accusers taking him cigarettes in hospital.

The next accused, Ostrowski, was again a kapo - I am going back to the early days of this trial when we called all functionaries kapos - a functionary. He was at Gross Rosen, Dora and then in Belson. He is the man whom, you may remember, not everyone very mixed because of the curious position of B.12 which was part of Dora. I would suggest to you that his own witnesses made it quite plain that the allegations against him there are true. You may remember he said that he was a kapo, or rather stuf onienst actually, in Block 19 and changed to Block 18, but in answer in re-examination he said it was from Block 19 he finally left. Well, it just shows how confusing this case can be because he calls them 18 and 19, one calls them 1 and 2 and others A and B, and they are all the same. What I do suggest is quite plain is that he was not quite telling us the truth when he told us this story of 900 men having to squat outside. That was quite untrue because you will remember his own witnesses remember it; they said "It was not in our block and we remember it; there were only two blocks". Have you any real doubt that what happened was that two days, or thereabouts, before this party left Dora altogether the smaller kommando of 40 men arrived shortly before leaving and stayed for two days, and that is what the witnesses meant when they say they went into Block 19 and that is where they were ill-treated by Ostrowski.

Then you have the position when he gets to Belson. He is a kapo in Block 19 and he insists he was never a functionary at all. He says that there were no parades at all in Block 19 and that no one in the block was made to go out and drag corpses but then he forgets when he says that that he has already said that fit men from No. 1 camp chased people out to drag corpses. You may remember he got a little mixed on that because I was suggesting to him that he was responsible for it and in fact chased the sick people out to drag corpses, but he said: "No, it is not true, it is the fit men who came from camp No. 1" but later on, quite appreciating it, he said: "No one in the camp was made to go and drag corpses. There were not any parades at all", and he says that all this time he was ill in bed with tonsillitis. Can you imagine when this was going on, this procession was going on, when the events Mr le Druillencoc told us about were taking place, that he was really allowed to lay in bed because he had tonsillitis? It is an extraordinary thing, of course, that if he was not a functionary at all he had a bed, and you may think there is no doubt at all that he had a function in this block and that in fact he was engaged as the various witnesses say in beating people and in various ill-treatments which are alleged against him.

The next one is the little man, Aurdziog. He, if you remember, says that he has never had a stick in his hand in a concentration camp. He also never had anything whatsoever to do with making prisoners go out to work and he absolutely denies that he had anything to do with beating at all except, of course, with the hand when he was distributing food and somebody tried to take it away.

He, of course, is the man who made a full confession to Capt. Pipien of the French War Crimes Investigation team. You have heard his extraordinary story of how that was alleged to have been obtained from him, how he was made to sign at the pistol point, and yet if you examine the original you find below his signature he goes on to give an account and description of the persons who were working with him. What I suggest to you is that his account of what he alleged Capt. Pipien did is taken from a perfectly normal punishment in a concentration camp which he was familiar with but with which probably Capt. Pipien is not. Can you possibly believe that extraordinary statement as to how that evidence was obtained from him?

He called a witness, a witness who at the moment is serving 15 years for having beaten up a woman, who he met when he left Belsen. He was called to say that on the occasion when the Russian was beaten to death the beating was done by this man Adam and two Gypsies whilst the accused, whom at that time he did not know, was sweeping the floor at the other end of the block. Do you think for one moment that if somebody was being beaten to death you would be taking notice of where a man was sweeping? In a block with all these sick and ill people would not it have been a most extraordinary thing, to have been watching the man sweeping the floor? Is not that typical of many of the witnesses who have been called and quite nonsense? Why do you think these boys got away from Belsen as fast as they could go?

After that you come on to the two Forsters, Opitz, Klein, Blothe and so on, this collection of young women who almost invariably obtained their training in Langbielau; there are of course from Ravensbrück but the majority of them were from Langbielau, and I do not propose to go through the evidence of each of these women separately.

Ida Forster was one of the Langbielau collection, Ida Forster was trained there, Klara Opitz was trained there, Frieda Walter was trained in Langbielau, Irene Maschke was trained in Langbielau, Gertrud Piest was trained there, Gertrud Sauer was trained there, Hille Lisowitz was trained there, and two of the remaining ones were trained at Ravensbrück and two at Stettin. All these women have been at various times at Belsen, all of them have been working in factories and all their efforts to get their arrival as late as possible at Belsen, all of them are curious and, you may think, quite extraordinary in some cases. Then some suggest they just went off home and others went off to see various people. You get the impression that there was no discipline of any sort or kind. You have heard a great deal about that. They tried to make their arrival as late as possible at Belsen. They all arrived at various times and, practically speaking, each one of them, or very nearly so, does an odd night's duty in the bathhouse, she generally from there graduates to one or two days' duty about the camp and finally she gets a position either in charge of the vegetable kommando, the wood kommando, or in one or other of these kitchens.

Against, I think, everyone of the women whom I have mentioned there is evidence of beating. There is evidence of beating persons who come to try and steal food, and these beatings are not alleged to be slaps on the face, they are not alleged to be the boxing of ears. As I say, I have no intention of going through them individually. You must by now have formed your own view, but the view which I invite you to form on the evidence is that what these women were doing was not merely running up and chasing somebody, it went far further than that; it was the dragging of somebody in and beating her and beating her hard. On the question of the famous rubber sticks we have heard so much about, have you any real doubt as to what the truth was and the origin of it? Is there a kitchen with running water, is there a single kitchen with large boilers and portable boilers which are brought in and filled, where you do not have these short lengths of hose? You will find one in any institution kitchen, you will find one in every kitchen where there is running water late on? Is not it quite plain that these women were going far beyond merely chasing people away from these huts? Some of them admit chasing, some of them do not, some say they struck with their hands,

some say they never even saw someone struck, but you have this body of evidence of girls who were employed in the various kitchens and with regard to almost every one of these women you find exactly the same type of allegation made by quite different people in different parts of the camp, and that is why, again, I ask the Court to say that they are satisfied that these women were in fact beating and were in fact beating in a way which went far beyond, far beyond, the mere slapping of faces and far beyond the mere driving of persons away from the kitchen.

If you will remember, I asked a number of them: had not they seen beating in the camp? - No. Had they seen corpses lying about the Camp? - No. Anyone heard of it? - No. Never mentioned it, never talked about that sort of thing? Of course, all these women realised that they were in the camp, they had all been doing it. They arrived in the camp and instead of trying to help these wretched people they carried on as they carried on in the factories where they had been and in the concentration camps where they had been before and been trained.

I propose, as I say, to take these women quite generally like that without going into the individual evidence in each case. I have already suggested that when you come to consider for them you should consider the individual kitchens and see what went on in them - the picture of what went on in that particular kitchen. In my submission, the evidence against each of these women is virtually the same, though of course you will, I have no doubt, hear from the learned Judge Advocate when he comes to sum up the individual evidence against each one. But, in my submission, the evidence on each is such the same and I do not propose to go through it again.

Now you come to one of a different type, and that is Johanna Roth. She was a student. You will remember there were a number of allegations against her, Sofia Rosenwag, Rösman and Helene Klein. They were all the same; they were stories of beating up, beating regularly, beating old women and young women, beating with wooden sticks, beating with the back of a belt, and serious beatings which led in more than one case to severe injury and in some cases death.

My I particularly want to deal with Roth is because of the question of Elia Friedman. There has been a great deal said to whether Elia Friedman is alive or dead. You must remember that the Klein girl said: "I think her name is Friedman, but I am not sure. I may be wrong. Friedman, I think, was the right name." Whether Friedman is alive or dead I do not think very much matters. But you have this quite extraordinary story about this woman who is alleged to be an altoister and who has been in Ravensbruck, Auschwitz No. 1, Berkenau, Duly and, in fact, has been in either Ravensbruck or one part or another of Auschwitz ever since 1942. She says that she has never seen any beating in Auschwitz or Berkenau; never seen a selection or a transport although she was living in Lager A in Berkenau. She is the woman who says that prisoners played with Borman's dog. She says she never saw Volkenrath or Thlert; that she never bothered with aufschorin and has never seen Thlert's partner, although he was the blockführer of her camp. She says Friedman was never beaten at all. The only time she ever beat anybody was with her hand or a small leather belt for overcrowding or trying to get a second helping. If ever there was a woman who, as a prisoner, has identified herself completely with the S.S., not only in the camps she has been in but also here in the dock when she gave evidence, I do suggest it is this woman. She has identified herself completely with the S.S. and not with the prisoners at all.

The next accused is Hahnel. She is merely included in the general remarks I have made about these aufschorin in the main, and the evidence with regard to her I submit is precisely the same as the others.

Hahnel deserves mention of her own, because the position with regard to Hahnel is not quite the same as the others. The only evidence against Hahnel is the evidence that she beat a woman in the bathhouse. But you must remember that apparently Hahnel was in Guben, according to Ilse Foster,

and the aufscherein from Guben, provided that did not desert like Ilse Foster, should have arrived in Belsen early in February. Apparently they arrived in Guben at the end of January or the beginning of February and were evacuated, and therefore in the normal course of events Hahnel might be expected to arrive in Belsen somewhere in February. Volkensath when asked in cross-examination said it may have been the 4th or 5th April, and that there were no parades after the 4th April. (Of course we now know that that is quite untrue. Ilse Foster says she arrived during the first week of April and worked in kitchen No. 1 until the British arrived. Hahnel says she worked in cookhouse No. 1 for about a week before the British arrived. Litwinski says she worked in cookhouse No. 1 for the last few days. I think, therefore, you may take it she did work in Cookhouse No. 1 for the last few days.

There is no allegation made against her in respect of parades. The only allegation is that of this woman Stapler, who recognised her through a photograph. She says she beat a girl in the bath. As we have heard, practically every aufscherein went a night in the bathhouse, and you may think Hahnel was in the bathhouse and did beat a girl in the bathhouse. It is entirely a matter for you. Again you are left with one affidavit and that is all.

There remain only three accused with whom I have not dealt. They are all Polish. The first is Kopper. You may well think that Kopper is one of the most extraordinary characters in this case. I do not know what the court have formed of her, but what I would suggest is this: Kopper is obviously a woman of intelligence and most of the things that she has said have turned out to have a little more truth in them than the others. Is not it plain that Kopper preserved herself at Auschwitz as an informer? She admits she was two years in a strafkollekt, a month in which was generally enough for anybody, but she spent two years in it without being beaten when every one else was. She says that was because she knew her rights. You may well think it is because, as other prisoners allege, she was a human informer and beat as such. When she came to Belsen she was made a blockaltester almost at once. She had been four days as an assistant and then became a blockaltester. Then she became a camp policeman.

Kopper was obviously hand in glove with Starostka. Starostka says: "She came there and I thought it would be a shame after all poor old Kopper had gone through to take her out of the club and put her back to being an ordinary prisoner." Have you any doubt at all that throughout she was playing hard with the S.S. right from the word go? That happened at Ravensbruck I do not know, but as soon as she got to Auschwitz she got into that strafkollekt. She stayed there as an S.S. spy. When she came to Belsen she was given a job, made blockaltester, and then she was made a camp policeman, and it was only, you may think, because she got too big for her boots that on the 1st March she was alleged to be beaten up. She was obviously a woman who was not liked by the other prisoners and they were only too pleased to beat her up when given the opportunity.

There are many allegations made against her while she was blockaltester. She says she did beat people with her belt and with her hand. Then she puts up a rather extraordinary proposition, that when a policeman she did not have a stick at all and did not beat anybody, that her sole job was standing outside the cookhouse when the soup was available and shouting. Hahnel says she was standing outside there with a stick in her hand; she carried a stick when she was a policeman. Then you have a story of Kopper inside the block selling food; unfair distribution; anybody who gave her something got none, and an S.S. man was visiting her and bringing her presents.

That is Kopper. With the S.S. all the way. All the time she has been in that camp she has been prepared to be an informer of the S.S., and finally to beat women on their behalf as a blockaltester keeping order in the camp.

The next one is Polanski. Polanski is one of the Polish men who are alleged to have been an assistant blockaltester. All the witnesses say that he was an assistant blockaltester in block No. 12; that he behaved extremely badly, that he was beating prisoners out to bury the dead, that he was one of that gang of people who were forcing people out early in the morning, beating them on the head as they went, which Mr. Le Druillennet told us about when he was in the next block.

What is Polanski's answer? It is that during his ~~staid~~ stay in the camp he never had any function at all and never beat anyone, and that he himself was dragging these bodies. Does his story ring true? - Because to begin with he says: "We were not called out in the morning." The witnesses who were called say that it was dark when they were brought out, and that they were beaten as they came out. They said it was the function of the blockaltester and his assistant to beat the prisoners on to parade in the morning.

Then you have that extraordinary Polish officer who came here with his story that he moved into block No. 1 because he was a member of the band, a band of five with two women in it. He did say one extraordinary thing. He said Polanski visited him in compound No. 1 and that you could not walk to compound No. 1 unless you were a functionary. Polanski says he was never a functionary. I submit it is quite clear that the witness in this case is right, and that Polanski was engaged not in dragging corpses but in driving others to do it. There was some suggestion that the case has been enquired into by some Polish committee and they had nothing against him. But you will remember that when he was arrested he tried to run away when he was recognised by Engel and Fuchs. You may think that why he tried to run away, if you believe the evidence, was because he was trying to save his own skin because he was acting on behalf of the S.S. in beating people.

Now I come to the last of the accused, and that is Starostka. Starostka has set up a curious defence. She has in effect said: "I admit almost every allegation you make against me. I admit that within a very short time of coming into a concentration camp I became a blockaltester. I admit I beat people in the blocks. I admit that a very short time after that I became a lageraltester. I admit that I gained the confidence of the Germans. I admit that I did that deliberately. I admit I went on selection parades. I admit I went round with the numbers of the persons. I admit that I beat them. I did not beat them after I became lageraltester, but I admit that I had to try and keep in with the Germans, and that was what I was trying to do. What I was trying to do was a sort of underground movement in the camp. I took the view that if I could get this position I could help the prisoners against the S.S. I was during a sort of Scarlet Pimpernel. I was intending to work for the S.S. and no doubt the prisoners thought that, but I was looking after their interests."

If you accept that naturally she would be entitled to be acquitted. But can you conceivably accept that? Do the witnesses bear that out, quote apart from the witnesses for the prosecution? Szparaga says: "She created an atmosphere of fear in the whole block, block No. 26", quite apart from the ones who say she was denouncing people to the S.S. and that she was regularly beating people in the block.

What about her own witnesses? You see, Starostka says, if you remember, that there was one German, one Jewish and one Polish lageraltester, but the first two witnesses she called are quite definite that that is not true. You may think that these two witnesses were called to say one thing and one thing only, as I suggested to them, "Starostka was a good girl to me." The moment you began to cross-examine them away from their prepared story you found that there never was a Jewish lageraltester at all. The other two were German. In other words, she was the only Polish woman who would accept the position, and she played for it and got it.

You remember that little girl, almost a baby - the one who could not remember when she arrived there, and produced to you her number and her story about 26 girls in the gas chamber. You remember Starostka told us this story about how she once saved 26 women from the gas chamber by pleading with the authorities, and quite obviously this little girl, Anna Wojciechowska, was supposed to support that story. But, of course, that was not her story at all. What happened quite clearly was she was one of these people rounded up in one of the general round ups, they were all marched off and it was found she had no shoes, and she was given some and she went off back to the working party. There was no saving from the gas chamber at all. Starostka said that these girls were weak and that she sent the girl off to the hospital, that she had particularly protected her and sent her to hospital. Wojciechowska says, on the other hand: "I had no shoes and then I got some I went off to work with my working party."

You will remember the next witness, Janicka, and the next one, Konsta. Both of them came here to say that everybody was bad except Starostka. Both of them said something rather interesting. They both said in almost the same words that they were warned it was very bad to go to Block 1b.7 because Starostka was a very bad woman, that it was a very bad block and she was a bad Blockhalter, but when they got there it was not so. The answer is they were both Poles, both Lyan Poles, and, as I have said so often before in this case, there were favourites all the way through. The name was given was not it, by Nowogrodzka. She started off by saying that Starostka did her best, but she was asked a number of very searching questions by the learned Judge Advocate and eventually she made it quite clear that Starostka did nothing whatsoever for anybody but Lyan Poles, and that what she did was to put Lyan Poles in a favourable position and not to pay the slightest attention to the others. She tried to do her best to put the Polish internees in positions of authority where they could not be beaten any more. Is not it quite plain that what she did was to change sides. She was a reasonably educated and not unattractive woman. She found herself in that concentration camp and she made herself indispensable to the S.S., and she accepted any position which was given to her. She went the whole way, and is there really the slightest evidence at all to support her story that she was doing this not for her own benefit but for the benefit of other people?

When she came to Belson she accepted the same position, and disappeared from the camp before the British arrived. Of course, there is a body of evidence of her having beaten people and made them kneel, which she admits, with one curious exception, and it is difficult to understand why. She suddenly will have it that she never beat anybody as Lagerhalter, although everybody had said she did. Could she possibly have preserved her position, even if she was playing the game she says she was playing, in the camp with the others who were doing the beating without taking part in it herself? Why she takes that chance one does not know.

I have been through each of the accused, and I have taken some of them generally, merely putting odd points to you. I want again to reiterate that I do not put this case as individual cases against the accused, and whilst you must, of course, examine individual cases to see whether you believe the witness (you must examine the individual evidence to see whether you believe and are satisfied beyond a reasonable doubt that these people, and each one of these people, took part in this joint offence) the way in which the prosecution puts its case is that there was existing in Germany during the period covered by each of these charges an organisation which, whatever may have been its objects - and its intentions have been plain in the course of achieving these objects - it quite deliberately murdered and ill-treated a great number of allied people. In my submission, any person who took part in that ill-treatment or in those murders, however early or late they may have joined the conspiracy, if you are satisfied that they in fact did join it, if you are satisfied that they in fact did take part in the ill-treatment of allied nationals either at Auschwitz or at Belson then although their part may be small they had joined in a conspiracy and they must bear their responsibility within the law.

You remember that little girl, almost a baby - the one who could not remember when she arrived there, and produced to you her number and her story about 26 girls in the gas chamber. You remember Starostka told us this story about how she once saved 26 women from the gas chamber by pleading with the authorities, and quite obviously this little girl, Anna Wojciechowska, was supposed to support that story. But, of course, that was not her story at all. What happened quite clearly was she was one of these people rounded up in one of the general round ups, they were all marched off and it was found she had no shoes, and she was given some and she went off back to the working party. There was no saving from the gas chamber at all. Starostka said that these girls were weak and that she sent the girl off to the hospital, that she had particularly protected her and sent her to hospital. Wojciechowska says, on the other hand: "I had no shoes and then I got some I went off to work with my working party."

You will remember the next witness, Janicka, and the next one, Honstra. Both of them came here to say that everybody was bad except Starostka. Both of them said something rather interesting. They both said in almost the same words that they were warned it was very bad to go to Block 1b.7 because Starostka was a very bad woman, that it was a very bad block and she was a bad blackletter, but when they got there it was not so. The answer is they were both Poles, both Syrian Poles, and, as I have said so often before in this case, there were favourites all the way through. The name was given away, was not it, by Nowogrodzka. She started off by saying that Starostka did her best, but she was asked a number of very searching questions by the learned Judge Advocate and eventually she made it quite clear that Starostka did nothing whatsoever for anybody but the Poles, and that what she did was to put Syrian Poles in a favourable position and not to pay the slightest attention to the others. She tried to do her best to put the Polish internees in positions of authority where they could not be beaten any more. Is not it quite plain that what she did was to change sides. She was a reasonably educated and not unattractive woman. She found herself in that concentration camp and she made herself indispensable to the S.S., and she accepted any position which was given to her. She went the whole way, and is there really the slightest evidence at all to support her story that she was doing this not for her own benefit but for the benefit of other people?

When she came to Belson she accepted the same position, and disappeared from the camp before the British arrived. Of course, there is a body of evidence of her having beaten people and made them kneel, which she admits, with one curious exception, and it is difficult to understand why. She suddenly will have it that she never beat anybody as Lageraltester, although everybody has said she did. Could she possibly have preserved her position, even if she was playing the game she says she was playing, in the camp with the others who were doing the beating without taking part in it herself? Why she takes that chance one does not know.

I have been through each of the accused, and I have taken some of them generally, merely putting odd points to you. I want again to reiterate that I do not put this case as individual cases against the accused, and whilst you must, of course, examine individual cases to see whether you believe the witness (you must examine the individual evidence to see whether you believe and are satisfied beyond a reasonable doubt that these people, and each one of these people, took part in this joint offence) the way in which the prosecution puts its case is that there was existing in Germany during the period covered by each of these charges an organisation which, whatever may have been its objects - and its intentions have been plain in the course of achieving these objects - it quite deliberately murdered and ill-treated a great number of allied people. In my submission, any person who took part in that ill-treatment or in those murders, however early or late they may have joined the conspiracy, if you are satisfied that they in fact did join it, if you are satisfied that they in fact did take part in the ill-treatment of allied nationals either at Auschwitz or at Belson then although their part may be small they had joined in a conspiracy and they must bear their responsibility within the law.

That is the way in which the prosecution puts its case, that they were together concerned as parties to the illtreatment of such persons. I ask you to say, having regard to what was found at Auschwitz, that any person in this dock who took a part, however small, in the illtreatment of prisoners at Auschwitz must bear their responsibility in the face of that dreadful set up; that any person who took part in these selections, however small that part, if they knowing the purpose of the selections took part in them when they were guilty of murder, they were guilty of the death of those persons, and the fact that their part was small is neither here nor there; the fact that they were working under orders is neither here nor there. If they knew that what they were doing was wrong, and if they did it, knowing it was wrong, merely because they were prepared to fall in with the scheme - it may have been hard to stand up to it, but they are men and women with free wills, they are not children and they are not animals - I say they have got to stand up when evil is proposed to them or they must take the consequence of doing the evil which is put before them.

You have precisely the same position at Belsen. You have not the gas chambers, but you have conditions created there which may well have been worse than any gas chamber. You have people dying in very drawn out agony, which was not thought of in Auschwitz. It is immaterial, in my submission, whether that was deliberate, because these people were no longer fit to work for the Reich and therefore they were to be left to starve, or whether it was the result of gross neglect of the persons who were placed in their charge. Again I suggest that if persons take part in such an enterprise, whether they joined it early on or whether they joined it late, if they were the head of it, as Kramer was, or if they were the tail of it, as were some of these boys who joined it possibly to save their skins, they cannot avoid their responsibility. I say if you are satisfied that they did take part, however small, in it then they are guilty of the charge.

This court is doing justice. If you have any reasonable doubt in the case of any of the accused quite rightly you will acquit them, providing of course that that doubt is in fact a reasonable doubt. If, on the other hand, you are satisfied in respect of all or any of these persons that they knew what was happening, that they realised that these people were dying of neglect, and they took part in it then, in my submission, there can be only one other verdict on whichever charge it may be, and that is that they are guilty.

This case started, by a singular coincidence, on the Jewish day of Atonement. It is a very long time ago, and if the court are satisfied of the guilt of any of these prisoners then, in my submission, they have only one duty, and that is to find them guilty.

(At 1755 hours the court is adjourned until 0930 hours on Wednesday 14th November 1945).